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. 24-03195 (MI)
Plaintiffs,	)	
v.	)	
CB&I INC; ZACHRY INDUSTRIAL, INC.; and CHIYODA INTERNATIONAL CORPORATION,	)	
Defendants.	)	

DEBTORS' WITNESS AND EXHIBIT LIST FOR HEARING SCHEDULED FOR DECEMBER 9, 2024, AT 1:30 P.M. (PREVAILING CENTRAL TIME)

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") file their Witness and Exhibit List for the hearing to be held on **December 9, 2024, at 1:30 p.m. (prevailing Central Time)**, and as may be continued from time to time thereafter (the "**Hearing**"), as follows:

[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.

24903772412060000000000012

WITNESSES

The Debtors may call any of the following witnesses:

1. Any witness necessary to authenticate a document;

2. Any witness listed or called by any other party;

3. Rebuttal or impeachment witnesses as necessary; and

4. The Debtors reserve the right to cross-examine any witness called by any other party.

EXHIBITS

The Debtors may introduce the following exhibits:

EXHIBIT NO.	DESCRIPTION	MARK	OFFERED	OBJECTION	ADMITTED	W/D	DISPOSITION AFTER CONFERENCE
1.	Declaration of Ralph Biediger in Support of the Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523] [Docket No. 1187-1]						
2.	Engineering Evaluation [Docket No. 1187-1, Ex. 1]						
3.	February 14, 2014 Letter to FLNG [Docket No. 1187-1, Ex. 2]						
4.	FLNG's February 21, 2014 Letter [Docket No. 1187-1, Ex. 3]						
5.	Supplemental Declaration of Ralph Biediger in Support of Debtors' Objection to FLNG Contract Claims [Docket No. 1379]						
6.	Proof of Claim No. 1443						

EXHIBIT NO.	DESCRIPTION	MARK	OFFERED	OBJECTION	ADMITTED	W/D	DISPOSITION AFTER CONFERENCE
7.	Proof of Claim No. 1499						
8.	Proof of Claim No. 1500						
9.	Proof of Claim No. 1501						
10.	Proof of Claim No. 1502						
11.	Proof of Claim No. 1523						
12.	Train 3 EPC Contract [FILED UNDER SEAL] [Adv. Pro. No. 24-03189, Docket No. 13, Ex. A; Adv. Pro. No. 24-03190, Docket No. 13, Ex. A]						
13.	Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523] [Docket No. 1187]						
14.	Any document or pleading filed in the above-captioned main cases.						
15.	Any document or pleading filed in the adversary proceeding *FLNG Liquefaction LLC et al v. CB&I Inc. et al.*, [Adv. Pro. No. 24-03195]						
16.	Any exhibit necessary for impeachment and/or rebuttal purposes.						
17.	Any exhibit identified or offered by any other party.						

RESERVATION OF RIGHTS

The Debtors reserve the right to call or introduce one or more, or none, of the witnesses and exhibits listed above, and further reserve the right to supplement, modify, or amend this list prior to the Hearing.

Dated: December 6, 2024
Houston, Texas

/s/ *Charles R. Koster*

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Counsel to the Debtors and Debtors in Possession

Certificate of Service

I certify that on December 6, 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 1

Declaration of Ralph Biediger in Support of the Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523] [Docket No. 1187-1]

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)

DECLARATION OF RALPH BIEDIGER
IN SUPPORT OF THE DEBTORS' OBJECTION TO THE FLNG CONTRACT CLAIMS [CLAIM NOS. 1443, 1499, 1500, 1501, 1502, AND 1523]

I, Ralph Biediger, the President, Construction Group, of Zachry Industrial, Inc. ("**ZII**"), declare pursuant to 28 U.S.C. §1746 as follows:

1. I am the President, Construction Group, of ZII.

2. I submit this declaration (the "**Declaration**") in support of the *Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523]* (the "**Objection**"), filed contemporaneously herewith.[2]

3. On May 21, 2024, (the "**Petition Date**"), each Debtor (collectively, the "**Debtors**") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"), commencing the chapter 11 cases.

4. As President of ZII, I am generally familiar with the Debtors' business, financial condition, policies and procedures, day-to-day operations, and books and records and have been since ZII began working on the FLNG project. Except as otherwise indicated, all facts set forth in

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2 Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Objection.

this Declaration are based upon my personal knowledge, my discussions with other members of the Debtors' management team and external advisors, my review of relevant documents and information, and my opinion based upon my experience and knowledge of the Debtors' industry, operations, and financial condition.

The EPC Contract Between FLNG and the JV Partners

5. In 2013 and 2015, ZII, together with its joint venture partners CB&I, Inc. ("**CB&I**") and Chiyoda International Corporation ("**Chiyoda**" and, together with CB&I and ZII, the "**JV Partners**"), entered into a series of contracts with FLNG (collectively, the "**EPC Contracts**") to develop three processing units, also known as trains, and common infrastructure on a fixed-price, turnkey basis for use in liquified natural gas exportation at the FLNG-owned, Quintana Island LNG Liquefaction and Export Facility (the "**Facility**"). I was personally involved in the ZII management team overseeing ZII's overall work on the FLNG project.

6. The portions of each EPC Contract relevant to this dispute are virtually identical.

7. Each of the three trains uses three 75 Mega-Watt (MW) motors manufactured by General Electric (GE); each motor in turn powers three propane and mixed-refrigerant compressors. However, for Trains 1 and 2, the ZII and CB&I joint venture ("**ZII/CB&I JV**") recommended motors manufactured by Siemens rather than by GE. As part of the procurement process, ZII/CB&I JV conducted a technical evaluation of supplier proposals for the Main Refrigeration Compressors (MRC) and associated equipment for the FLNG project, titled Engineering Evaluation Letter, Doc. 1008-BR-0160-001.01 (the "**Engineering Evaluation**"). The Engineering Evaluation set forth ZII/CB&I JV's justification for its recommendation of Siemens motors. A true and correct copy of the Engineering Evaluation is attached hereto as **Exhibit 1**.

8. In its engineering evaluation, ZII/CB&I JV observed that the Siemens motors had a better design and that there was some possibility that problems will occur during manufacturing or testing of the compressor motors due to their complexity, and that the risk could be reduced via selection of the Siemens LCI offering. ZII/CB&I JV found "significant difference in the strength of references between Siemens and GE for motors" and noted that "Siemens has built well over 50 such motors" whereas GE had only built two. Based on its technical evaluation, ZII/CB&I JV concluded that "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. . . ."

9. ZII/CB&I JV's recommendation of Siemens motors was formalized in a letter to FLNG on February 14, 2014, wherein it was noted that the proven capabilities of Siemens's motors were "based on previous fabrication of this world-class size equipment – mechanical and electrical." A true and correct copy of the February 14, 2014 letter is attached hereto as **Exhibit 2**.

10. FLNG chose to override ZII/CB&I JV's recommendation and instructed ZII/CB&I JV to proceed with the GE motors. A true and correct copy of a letter dated February 21, 2014, is attached hereto as **Exhibit 3**.

11. As instructed, ZII/CB&I JV procured and installed the GE motors into Trains 1 and 2, and later ZII, CB&I, and Chiyoda did the same for Train 3. The JV Partners did not engineer or design the motor or its component parts and their only involvement was evaluating the GE system. Thus, GE's manufacturing defect with respect to selection and installation of hardware

(bolts, nuts, washers) could not have been discovered through ZII's inspection or other work on the project.

12. The EPC Contracts pursuant to which the motors were installed set forth a detailed, comprehensive structure and extensive set of provisions governing the scope of liability and damages between and among them for claims and losses. The EPC Contracts exclusively define the relationship between the JV Partners and FLNG, including the Scope of Work, which is set forth in Section 3.1.A of the EPC Contracts and Attachment A thereto.

13. Section 8.2.B of the EPC Contracts, titled "After Substantial Completion," provides that "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2 or 3 projects] and each component thereof after Substantial Completion of the Train [1, 2, or 3 projects] is achieved." Section 8.2B does have an exception for any obligations the JV may have with respect to Defective Work or Corrective Work, which are defined under Article 12 of the EPC Contracts, titled "Warranty and Correction of Work".

14. Section 12.1D of the EPC Contracts, titled "Exceptions to Warranty," provides that "The Warranty excludes remedy." Section 12.3 of the EPC Contracts, titled "Correction of Work After Substantial Completion" states that "If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work."

15. The EPC Contracts for each train also contained a Defect Correction Period for the applicable parties' work. The "Defect Correction Period" is defined in the EPC Contracts as "the period commencing upon Substantial Completion and ending eighteen (18) months thereafter, as may be extended in accordance with Section 12.3B." Substantial Completion occurred prior to commissioning and the commencement of commercial operations.

16. The three trains became operational and began exporting liquified natural gas in December 2019 (Train 1), January 2020 (Train 2), and May 2020 (Train 3). Thus, I understand that the Defect Correction Period for Trains 1, 2, and 3, respectively, expired no later than June 2021, July 2021, and November 2021.

17. Further, Article 20 of the EPC Contracts addresses "LIMITATION OF LIABILITY." In Section 20.5, titled "Consequential Damages" the parties agreed that "NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT" for "INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES . . . OR BUSINESS INTERRUPTIONS" and Owner and Contractor "WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES."

18. Additionally, pursuant to Section 20.2 of the EPC Contracts, after substantial completion, "Contractors liability . . . shall be limited to One Million U.S. Dollars (U.S. $1,000,000) per occurrence . . ." and "Owner releases, waives and shall defend, indemnify and hold harmless Contractor . . . from and against all damages, losses, costs and 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 any portion of the Train [1, 2, or 3 projects respectively] occurring after the Train [1, 2, or 3] achieved Substantial completion . . . ." I understand this to mean ZII is liable only for Owner's (as defined in the EPC Contracts) insurance deductible in the amount of $1,000,000 per occurrence, with the exception for correction of work "mechanically or structurally" connected to "Defective Work" under Article 12, Warranties.

The FLNG Contract Litigation

19. Based on information provided to me, I understand that FLNG claims on January 17, 2024, the GE motor on Train 3 "tripped" and remained offline due to an alleged electrical short

within a "non-accessible portion" of the motor caused by loose hardware (bolts, nuts, and washers) that dislodged and fell into the motor windings. I understand that FLNG further claims that the remaining motors in Train 3, along with all of the motors in Trains 1 and 2, would likely suffer from the same defects.

FLNG's Proofs of Claim

20. I understand that on September 13, 2024, FLNG filed six substantially identical Proofs of Claim against ZII and Zachry Holdings, Inc., as guarantor of ZII's obligations under the EPC Contract. I understand that in the Proofs of Claim, FLNG assert unliquidated general unsecured claims based solely on the allegations set forth in the FLNG Contract Litigation.

21. I have reviewed the Proofs of Claim, and I believe the allegations set forth therein, including in FLNG's original petition attached thereto and filed in the FLNG Contract Litigation, directly conflict with the provisions set forth in the EPC Contract and the facts surrounding procurement and installation of the motors at issue.

[*Remainder of Page Intentionally Left Blank*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: October 18, 2024

/s/ *Ralph Biediger*
Ralph Biediger
President, Construction Group, Zachry Industrial, Inc.

EXHIBIT 2

Engineering Evaluation [Docket No. 1187-1, Ex. 1]

ZACHRY | CBI JOINT VENTURE

Freeport LNG Liquefaction Project

FREEPORT LNG

ZACHRY/CB&I JV **Freeport LNG Expansion, L.P.**

Document Title: **Engineering Evaluation Letter**

Material Requisition For: **Main Refrigerant Compressors**

Document No: **1008-BR-0160-001.01**

Project Number: **179811**

iDocs Folder: **17.1.6.2**

Revision Descriptions	Rev	Date	Prepared by	Checker	Approver
Issued for Estimate	A	10-Jun-2013	KA	SN	KA
Issued for Information	B	19-Dec-2013	SN/SG	WR/HA	KA/CK

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ZACHRY | CB&I JOINT VENTURE

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 11K-31 & 12K-31, LP MR Compressors 11K-32/33 & 12K-32/33, MP/HP MR Compressors Along with the following associated equipment:- 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. Outdoor drive transformers for supply of power to drives and harmonic filters 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.

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

TABLE OF CONTENTS

1.0 DISCUSSION (GENERAL) 4
2.0 DESIGN BASIS AND EVALUATION CRITERIA 4
3.0 REQUIRED SCOPE OF SUPPLY 5
4.0 COMPRESSORS EVALUATION 5
4.1 Propane Compressor Evaluation 5
4.2 Mixed Refrigerant LP / MPHP Compressors Evaluation 7
4.3 Compressor Stage Finite Element Analysis 8
4.4 Compressors Operational Characteristics 9
4.4.1 Operational Stability & Capacity Tabulation 9
4.4.2 Compressors Consumed Power and Efficiency 9
4.4.3 Conclusions for Tables 4.4.1 and 4.4.2 9
4.4.4 Rotor Dynamics evaluation. 10
4.5 Auxiliary systems 11
4.6 Overall Compressors Conclusion 12
5.0 ELECTRICAL DRIVE SYSTEMS EVALUATION 12
5.1 Overall Configuration and References 12
5.2 Drive Transformers 14
5.3 Main Driver Motors 15
5.4 Harmonic Filters 15
5.5 Electrical Drive Enclosures (E-Houses) 16
5.6 Gas Insulated Switchgear (GIS) Scope 16
5.7 Harmonic Analysis and Other Power System Studies 17
5.8 Torsional Stress Analysis 17
5.9 Comparison of Drive System Equipment Efficiencies/Losses & Reliability 18
6.0 TESTING 19
7.0 EVALUATING THE ALTERNATIVE GE VSI PROPOSAL(S) 20
Mechanical Evaluation: 20
Electrical Evaluation: 20
8.0 PROJECT EXECUTION CAPABILITIES 21
9.0 OVERALL RESPONSIBILITY AND PERFORMANCE GUARANTEES 21
10.0 RISK CONSIDERATIONS 22
10.1 Compressor Design 22
10.2 Dynamic Compressor Behavior 22
10.3 Control System Interfaces 22
10.4 Noise Compliance 22
10.5 Drive Equipment 23
10.6 Utility Grid and Electrical Load Size/Nature 23
10.7 Engineering/Design Execution 24
10.8 Conclusions 24
11.0 SUMMARY / RECOMMENDATIONS 24
12.0 ATTACHMENTS & REFERENCES (ON HOLD. TO BE AGREED IN THE NEXT TEAM MEETING) .. 25

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

1.0 DISCUSSION (GENERAL)

The purpose of this document is to summarize the technical evaluation of the Supplier proposals for the Main Refrigeration Compressors (MRC) and associated equipment for the Freeport LNG Project. The evaluation described herein is the culmination of several months of correspondence and clarification meetings with the two prospective Suppliers, GE Oil & Gas and Siemens. The MRC services for this project are atypical of LNG facilities due to the utilization of electric drive systems. The size and complexity of these drive systems warranted significant evaluation of each Supplier's proposed drive architecture and the effects (and mitigation of same) on other plant equipment. The following proposals were evaluated for this project:

- Siemens compressors (~3,000 rpm) with a Load Commuted Inverter (LCI) Variable Speed Drive and a 2-pole Synchronous Motor
- GE compressors (~3,000 rpm) with a Load Commuted Inverter (LCI) Variable Speed Drive and a 2-pole Synchronous Motor
- GE compressors (~3,000 rpm) with a Voltage Source Inverter (VSI) Variable Speed Drive and a 2-pole Synchronous Motor

Late during final bid clarifications, GE indicated a desire to propose a new compressor selection at 3,800 rpm with a VSI type Motor Driver, and they subsequently provided some technical data (curves and other documents) for consideration. An initial screening by ZCJV Engineering indicated significant technical concerns over the 3,800 rpm compressor selection, and no further evaluation is planned for this alternative.

This evaluation is based on the initial and revised offerings by Suppliers and the subsequent bid clarification process.

2.0 DESIGN BASIS AND EVALUATION CRITERIA

As a world class, all-electric LNG export facility, Freeport LNG (FLNG) will be on the leading edge of size (75 MW motors) and technology for motor-driven compressors. There are few proven, comparable references for electric motors, compressors, and variable speed drive systems (VSD) of the required size. Freeport LNG intends to produce a total of 13.2 MTPA of LNG from three identical LNG trains (two trains for the current scope of work and future third train). Each train shall deliver a nominal 4.4 MTPA LNG based on APCI propane mixed refrigerant (C3-MR) liquefaction technology. The process design basis is outlined in Doc. No. 1008-000-JSD-0000-003.0001 "Process Design Basis- Provided to Air Products ".

Each LNG train's refrigeration load will be carried out through three compression strings which will be electrically driven from three identical 75MW variable speed synchronous motors. The configuration will be as follows:

- Single horizontally split Propane compressor with four side streams per LNG train.
- Single horizontally split Low Pressure Mixed refrigerant compressor per LNG train.
- Two Mixed refrigerant compression stages per LNG train (Medium/High pressure) in single casing.

The following defines the basis of design and evaluation criteria of this letter:

- Supplier demonstrates level of design and capability to supply the complete solution.
- Solid design references based on well proven compression strings with the best design, performances, package layout, and past installation experience.
- Equipment rating designed for a minimum service life of 25 years suitable for outdoor tropical service.
- Supplier compliance with and conformance to all applicable standards and specifications.

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- Standardization of equipment and sparing with a level of Redundancy in components.
- Supplier capability, including project engineering execution capability, manufacturing, and testing facilities.

With respect to several Suppliers of large LNG Refrigeration Compressors, Siemens and GE can supply a single source of manufacturing for the long lead items and present the level of compliance with the required compressor and associated project specifications. Both GE and Siemens successfully claim a measurable experience with proven LNG refrigeration applications.

Other suppliers (Elliott and Mitsubishi) were pre-qualified for this package, but ultimately declined to bid.

3.0 REQUIRED SCOPE OF SUPPLY

The following scope of supply for the propane and mixed refrigerant compressors is required.

- (Two) single casing, horizontally split Propane Compressors.
- (Two) Single casing, horizontally split, Low pressure Mixed Refrigerant Compressors.
- (Two) Single casing, vertically split, Medium Pressure / High Pressure Mixed Refrigerant Compressors.
- (Six) Instrumentation, Machine Monitoring System, & Unit Control Panel Assemblies (one per compressor).
- (Lot) Anti surge valves and Hot-Gas bypass valves for all stages, all compressors.
- (Six) Common Driver-Driven machines Lube oil systems per API 614 5th edition.
- (Six) Dry Gas Sealing systems (Flowserve - Pressure control scheme).
- (Six) 2-pole nominal 75 MW motor included. Separate closed loop cooling system for each motor.
- (Six) Variable Speed Drive Systems, each with 4-winding isolation transformer + Harmonic filters.
- (Six) Enclosures for the VFD's, (Six) Enclosures for the harmonic filters, (Six) Enclosures for LV-MCC and Compressors Unit control panels.
- (One) 138kV power distribution substation utilizing gas insulated switchgear.
- (Lot) Startup and commissioning spares and special tools.
- (Lot) Performance, functional and mechanical run tests along with string test. See testing section.
- (Lot) Mechanical system response analysis, Harmonic levels evaluation and Rotor dynamics study.
- (Lot) Electrical system / grid simulation based on agreed scope.

4.0 COMPRESSORS EVALUATION

4.1 Propane Compressor Evaluation

GE Offering

GE proposed the propane Compressor as a horizontally split type carbon steel casing mezzanine mounted with Down-Down Nozzles orientation and single piece forged steel shaft, keyless tapered and hydraulic fit with instrumented Tilting-Pad Journal Bearings and instrumented Double acting self-equalizing Thrust Bearing. The Compressor will be mounted on a skid and all of the Lube oil supply, returns and drain header will be flanged connections at the skid edge.

The minimum design metal temperature of the compressor is -50F at concurrent pressure of 350 PSIG.

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GE proposed 5 X T.5.3 3D enclosed Impellers for the propane Compressor (1590mm Welded; 1615mm Full-Milling; 1655mm Full-Milling; 1420mm Welded; and 1315mm Welded); the head coefficients range from 0.509 to 0.532, and flow coefficients range from 0.092 to 0.117. The distributed average of 28.25 KJ/kg polytropic head per stage represents a good distribution of power levels across the compressor wheels, and does not overload any individual impeller with its associated refrigeration side load. Each impeller's tip speed and inlet Mach number (below 0.94) values are guaranteed per GE proven experience and are acceptable to ZCJV.

GE proposed standard nozzles sizes for the compressor with 300# RF rating, and the gas velocity into the nozzles are acceptable (average 77 Ft/sec).

With respect to GE Propane Compressor Impellers references and Impellers scatter diagrams, there are few model tested and fewer performance tested (type II test) T5.3 Impellers. It came to ZCJV's attention during the Bid Clarification Meeting that some of the experienced Impellers provided on the project reference list (attached with this evaluation) are within different Impeller families. After further clarifications and detailed evaluation of the correct references, ZCJV confirmed the five proposed C3 impellers include some tested T5.3 impellers and some other T5.3 impellers in operation.

All of the associated Electrical system around the compressor body is suitable for Class 1, Division 2, Group C&D; but during the Bid Clarification Meeting, it was agreed with GE that the Compressor Motor has to be housed in a common acoustic enclosure. GE was requested to provide an option to make all instrumentation within the enclosure Class 1/Div. 1. This is to avoid tripping the compressor if there is loss of the off skid (acoustic) enclosure pressure and the motor purging system continues to operate properly.

Siemens Offering

Siemens also proposed a horizontally split type carbon steel casing propane compressor mezzanine mounted with Down-Down nozzle Orientation and a single piece forged steel shaft, keyless tapered and hydraulic fit with instrumented Tilting-Pad Journal Bearings and instrumented Double acting self-equalizing Thrust Bearing. Siemens has not qualified Kingsbury bearings and ZCJV accepts Siemens standard bearing Suppliers. The Compressor will be mounted on a skid and all of the Lube oil supply, returns and drain header will be flanged connections at the skid edge.

Initially, ZCJV and FLNG were concerned with the stability and head rise to surge values on the Siemens propane compressor. The subsequently proposed solution by Siemens was to optimize the machine best efficiency point and impeller designs at the 100% normal design flow instead of optimizing efficiency at 105% rated flow. This will guarantee an improved operating efficiency at 100% normal capacity. With the proposed solution, the machine will operate at 3004 (99.1%) RPM to deliver the 100% flow, all of the different compressor sections have surge stability values exceeding 15%, and head rise to surge exceeding 5%. The machine will have to slightly speed up to 101% speed to deliver 105% rated flow. This will keep the allowable remaining power from the motor as specified (no change) at 10%. Siemens presented 6 individual references of the proposed 50EA1 (3D) impeller family; all impellers (1600mm, 1600mm, 1600mm, 1410mm, and 1335mm) are welded. The proposed impellers' inlet Mach numbers with respect to flow coefficient would still remain (after the re-optimization) within Siemens design references.

After further clarifications and detailed evaluation on the correct Siemens Impellers references, ZCJV confirmed that three out of the five impellers had minimal references, which confirms the requirement for CFD analysis and Model testing for those three impellers.

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Siemens' noise attenuation solution around the compressor string is quite different than GE. During the Bid Clarification Meeting, it was agreed with Siemens that the Compressor and Motor shall be housed in two (2) separate acoustic enclosures (the preferred Siemens enclosures configuration). Siemens will also provide the option to make all instrumentation within the enclosure Class 1/Div. 1 to avoid tripping the compressor if there is loss of the off skid enclosure pressure, but there is a high likelihood of that option being unnecessary during the detailed design thanks to the separate acoustic enclosure design.

Siemens Propane Compressor minimum design metal temperature is -50F at concurrent pressure of 350 PSIG. The distributed 29 KJ/kg (average) polytropic head per stage is a good distribution of power levels across the compressor which does not over load an individual impeller with its associated refrigeration side load. All of the Impellers' tip speed and inlet Mach number values are guaranteed per Siemens proven experience. Siemens is looking for the possibility of standardization of the compressors nozzles sizes with 600# and 300# RF rating in order to use readily available piping spool pieces.

Both Suppliers demonstrated Low Impeller tolerances to optimize plant design and boost profitability; side loading design aspects have been reviewed carefully for the best optimization and reduced losses.

4.2 Mixed Refrigerant LP / MPHP Compressors Evaluation

GE Offering

For the Mixed Refrigerant Compressors, GE proposed five (5) and seven (7) Impellers respectively in a split casing and barrel casing LP / MPHP machines respectively. GE has a lower polytropic head per impellers across the two machines but with lower efficiency and more consumed power. The LP and MPHP Compressors from GE have first and second critical speeds well separated from the running speed range. Minimum design temperature is -50F at concurrent pressure of 1055 psig for the MPHP machine. The MPHP GE Compressor complied with the specified minimum design temperature at concurrent pressure, GE has deviated on the minimum design temperature for the LP machine, as they proposed -150F at 335 PSIG; this deviation has been accepted by ZCJV. The shafts are one piece with tapered ends and hydraulic fit with Tilting-Pad Journal instrumented Bearings and Double acting self-equalizing Thrust Bearing instrumented. All of the Impellers, diaphragms, balance piston, casing and labyrinths are made from the correct materials of construction. Bearings assembly and disassembly drawings for the MPHP machines will be reviewed with the Supplier during the detailed design phase.

The last two impellers on the MR-MPHP GE compressor are 2D based on the 3000RPM. GE has well proven T6.3 impellers for wheels 2-5 on the LP MR and 1-5 on the MP/HP MR. The first impeller on the LP MR machine is a T5.3.

Similar to the Propane Compressors, an acoustic enclosure is required for the LPMR Compressors and MPHP MR Compressors and associated motors. GE was asked to upgrade the instrumentation to Class1/Div1 as an option to avoid tripping the compressor in case of ventilation loss. GE was requested to include a master controller for the MR compression machines with two load sharing modules; this will ensure equal power distribution and load sharing of the LP and MPHP Compressors strings).

Siemens Offering

Siemens proposed a four (4) Impeller, horizontally split LP MR Compressor, and a six (6) Impeller, radially split two-stage MP/HP Compressor. Siemens used slightly higher polytropic head per impeller with respect to GE. Siemens used a 12 psi pressure drop from the LP MR discharge to the MP MR Compressor suction for normal Design Case 1 and rated 105% Design. The allowable pressure drop is 9 psi (in fact, Siemens has used 9 psi in all other rating cases). This contributes to an improvement in performance as it results in slightly more installed head on the MP/HP machine.

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The LP and MPHP Compressors from Siemens have first and second critical speeds well separated from the running speed range; minimum design temperature is -50F at concurrent pressure of 1055 psig for the MPHP machine, and -170F at 335 PSIG for the LP Machine. Siemens has no limitations on the specified MR LP machine minimum design temperature.

The shafts are one piece with tapered ends and hydraulic fit with Tilting-Pad Journal instrumented Bearings and Double acting self-equalizing Thrust Bearing instrumented. All of the Impellers, diaphragms, balance piston, casing and labyrinths are made from the correct material of construction. Bearings assembly and disassembly drawings of the MPHP machines will be reviewed with the Supplier during the detailed evaluation phase.

Siemens has proposed the same 3D Impeller family (50EA1) for these services as for the Propane Compressor.

Acoustic enclosures are required for the LPMR Compressors and MPHP MR Compressors and associated motors, but lower noise levels on the Siemens MPHP Compressor may make it possible to treat the process piping only and install the MPHP compressor without an enclosure. Siemens was asked to upgrade the instrumentation to Class1/Div1 as an option to avoid trip the compressor in case of ventilation loss, and

Siemens was requested to include a master controller for the MR compression machines with two load sharing modules; this will ensure equal power distribution and load sharing of the drivers.

Summary

Siemens LP/MPHP compressors have the better design due to better load distribution across the machines relative to the GE design. The Suppliers' Impeller selections on the LP MR Compressor service showed negligible differences. The difference became more apparent on the MPHP Compressor. The GE design for this compressor is an extended seven (7) impeller Rotor, while Siemens used six (6) impeller rotor configuration with higher and still acceptable polytropic heads per impeller. This creates the much better efficiency in favor of Siemens.

4.3 Compressor Stage Finite Element Analysis

Prior to the Bid Clarification Meetings, ZCJV has requested that both Suppliers prepare a finite element analysis for the impellers and submit the actual results. The scope of the analysis is to assure the stress level due to rotating speeds (rated and maximum continuous speed levels) and to evaluate the stress effect due to interference at impeller bore length by means of Structural Finite Element.

The following aspects have been reviewed with GE and Siemens. Both demonstrated acceptable results:

- A steady state static analysis.
- Centrifugal forces due to a rotating speed
- Residual deformation after loading.
- Static forces at impeller bore diameter.
- Total force and feet interference loss due to a rotating speed at rated and maximum speed.

Both Siemens and GE confirmed the utilization of the Impellers stress level will be within 60% of the material yield strength. A few exception cases were taken and exceeded the 60%, but within acceptable limits.

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4.4 Compressors Operational Characteristics

The following sections compare operational characteristics of the compressors presented by both Suppliers. Note that all values are reflective of the certified design point (APCI Design Case 1).

4.4.1 Operational Stability & Capacity Tabulation

		SIEMENS Compressors			GE Compressors		
Performance Aspect	**Required Criteria**	**C3**	**LPMR**	**MPHP**	**C3**	**LPMR**	**MPHP**
Inlet Weight Flow	+/- 0%	Accepted					
Absorbed Power	+4% allowed during testing.	Guaranteed during testing by GE and Siemens.					
Suction Pressure	+/- 0%	Accepted					
Q @ End of Curve	+10% @ 85% Head.	10.8%	13.3%	18%	16.6%	9.4%	21%
Pressure Rise to Surge	+5% (Ps/Pp)*100	5.4%	9.2%	5.9%	7.9%	17.1%	5.8%
Stability Range	+15% [(Qp-Qs)/Qp]*100	16.2%	15.7%	21.1%	19.3%	16.3%	19%
		C3 Compressor side stream suction pressure allowable negative tolerances:					
C3 side stream pressure:	Up to -3% for each	-0.7%	-0.14%	-3%	0%	0%	0%

4.4.2 Compressors Consumed Power and Efficiency

		Siemens Compressors			GE Compressors		
Performance Aspect	**Required unit**	**C3**	**LPMR**	**MPHP-MR**	**C3**	**LPMR**	**MPHP-MR**
Polytropic head	FT-LB/LB	46420	40938	41261	46098	41668	39871
Inlet Volume flow	CFM (Dry)	217354	148000	72652	215371	147792	70110
Absorbed Power	MW	63.22	58.22	58.87	63.28	60.62	60.057
Polytropic %	% (Avg)	85%	87.6%	87%	84.1%	85.5%	83.2%
Total Absorbed Power per train (MW)		180.31			183.94		

4.4.3 Conclusions for Tables 4.4.1 and 4.4.2

Both Siemens and GE have included the required 5% process design margin. Process does not require operation of the compressors above 100% speed. In summary, the proposed compressor performances for both Siemens and GE meet or exceed APCI's (the liquefaction process licensor) predicted performances in the material balances for the Design Case.

GE Compressors operational stability margins are slightly superior to the Siemens Compressors. The Siemens operational stability ranges are considered acceptable.

In the overall compressor evaluation presented, Siemens Compressor performance aspects are better than those proposed by GE, most notably from an efficiency standpoint. The total absorbed Power for Siemens machines is 3.6 MW lower (per Train) than those proposed by GE when operating to deliver 100% flow.

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4.4.4 Rotor Dynamics evaluation.

	SIEMENS Compressors			GE Compressors		
	C3	LPMR	MPHP	C3	LPMR	MPHP
Operating Speed(rpm)	2424-3181	2424-3181	2424-3181	2400-3150	2400-3150	2400-3150
Discharge density (kg/m3)*	51.0	21.1	72	39.34	18.26	64.11
Max discharge pressure(bar)	24.1	20.2	72.7	28.7	15.55	57.78
Bearing type (number of pads)	4 pads	4 pads	4 pads	5 pads	5 pads	5 pads
Bearing diameter (mm)	320	320	320	280	280	280
Bearing span (mm)	5192	4439	4242	5466	4971	4404
Circumferential velocity (m/s)	50.8	50.8	50.8	48.5	48.5	48.5
Bearing specific load (bar)	7.4	5.1	4.9	11.1	11.3	6.2
Rotor weight (kg)*	15128	10665	9404	17400	17200	9317
1st Damped critical speed [rpm]	1575	1530	1810	1540	1720	1820
Amplification factor [-]	9.3	11.7	7.7	15.88	10.12	7.95
Existing separation margin [%]	35	36.9	25.3	35.83	28.33	24.17
2nd Damped critical speed [rpm]	5275	5326	8100	4340	4720	5780
Amplification factor [-]	5.3	4.2	4.4	7.51	6.09	6.52
Existing separation margin [%]	65.9	67.4	154.6	37.78	49.84	83.49
Log. Dec worst case	0.2	0.16	0.29	0.15	0.2	0.18

** ZCJV is communicating with both Suppliers to confirm these numbers.*

GE and Siemens represented the damped and un-damped critical speed analysis which verified a good separation margin between critical speeds and operating zones. The forced response analysis concluded acceptable separation margins and amplification factors. Bearings specific loadings and circumferential speeds are within safe limits. Siemens and GE were asked during the evaluation process to consider self-excitation vibration (cross couplings from the bearing, fluid film shaft seals and labyrinth seals effects) and verify Level-1 and Level-2 API 617 stability analysis. Analysis was to take into consideration the sub-synchronous vibrations. GE has an advantage over Siemens on this point, because they take the Impeller shrinkage effects into the Rotor dynamics study, while Siemens presented the full-scale labyrinth test-rig in which they test the selected labyrinth and improve the level of stability by cutting the swirls with some sort of brakes labyrinth design (Siemens patent).

Both Suppliers confirmed the rotor dynamics tools from bidding through execution runs from data acquisition and modeling, rotor dynamics calculations, design check and finally the release of certified documentation.

Siemens and GE confirmed the shop residual unbalance verification test is included.

Stability measures (Log. Dec worst case bearing Condition) at the associated discharge gas density met or exceeded API requirements for both sellers (all values above 0.1). Fulton diagrams confirmed both Suppliers selected flexibility ratios are within the referenced gas density at discharge; this is with respect to previous projects done by both GE and Siemens.

Conclusion: Both compressors Suppliers presented stable rotors system from the Rotor dynamics point of view.

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4.5 Auxiliary systems

Couplings

GE and Siemens confirmed the couplings are designed with the reduced moment design. Coupling guard shall be non-sparking design. The couplings are electrically insulated and were selected with maximum momentary torque capability greater than the fluctuating torque caused by all applicable short circuit events.

Lube Oil System and Dry Gas Seals

Both Suppliers proposed a complete API-614 5th edition. Lube oil system with API 661 Air fan cooling system. Dual oil tanks heaters, 2 X100% electrical lube oil pumps and a rundown tank with all the necessary protection aspects are proposed. Exceptions made to the subject API requirements have been reviewed during the Bid Clarification Meeting (see TEDS). Both Suppliers were asked to build the lube oil system according to U.S. standards and to provide an option for a complete SS lube oil system.

Flowserve dry gas seals (DGS) are recommended on this application (which both Suppliers confirmed). DGS will be a tandem design with seal gas panel allocated outside the enclosures. The following was double checked with each Supplier in order to verify the safety of using common lube oil system for the Motor and Compressor:

- Seal gas booster is not required, but the Supplier has to provide the necessary heat insulation and heat tracing for the DGS system with dual heaters for the External seal gas source during start up.
- Alarm and possible trip on low pressure on the primary vent in case of secondary seal face failure.
- 1oo2 voting on all radial vibration measurements because it is more conservative than 2oo2.
- Use Flowserve CirPac tertiary seal (non-contacted carbon rings) which is more reliable and has better separation.
- Monitor flare back pressure on the primary seal gas vent and install release valves in case of high flare back pressure.

Noise Enclosures

In terms of noise, ZCJV requires both Suppliers to guarantee the sound power level of 105dBA. Both Suppliers confirmed they will meet the noise level by using acoustic enclosures.

GE offered a common enclosure with positive pressure ventilation, while Siemens offered two separate enclosures with the motor enclosure designed with positive pressure and compressor enclosure with negative pressure ventilation. Both have confirmed compliance with NEC and API code requirements for classification of areas, including the necessary number of air changes and the use of 2 X 100% ventilation fans, and the electrical equipment installations in hazardous locations. However, the GE design will likely require tripping of the compressor in case of a ventilation pressure loss while the motor purging system is not operating properly.

ZCJV advised that a CO_2 Extinguishing system is required, and both Suppliers confirmed. The rest of auxiliaries (air fin-fan coolers, lube oil system. etc.) noise levels were revised and agreed during the bid clarification meeting. See BCM MOM.

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Notes:

1. No maintenance crane will be provided inside the noise enclosures. Bridge cranes will be used for any required maintenance, necessitating the removal of the noise enclosure roof panel(s).
2. Instruments inside the compressor noise enclosures shall be suitable for Class1, Division 1, as a minimum, per FLNG's request.

Control Systems

In terms of control systems, Siemens has proposed two options:

- Option 1: Siemens complete solution.
- Option 2: Allen Bradley PLC + CCC Anti surge system.

GE has also proposed two options:

- Option 1: GE Complete solution (Mark VIe+ Opticomp).
- Option 2: Mark Vie PLC + CCC Anti surge system.

Option 2 for both Suppliers is recommended. See BCM MOM for detailed instruments and control system interface discussions. See the risk assessments and recommendations related to the control systems in sections 18 and 19.

4.6 Overall Compressors Conclusion

Both Suppliers demonstrate acceptable design aspects with exceptions to some points mentioned above and expanded further in the risk assessments and recommendations topics in this letter.

Siemens has proposed higher efficiency machines resulting in significantly lower operating brake horsepower per train. Additionally, the evaluation team felt Siemens demonstrated better mechanical project team execution capability and better integration with their electrical team. These aspects result in an evaluated final preference for the Siemens compressors.

5.0 ELECTRICAL DRIVE SYSTEMS EVALUATION

5.1 Overall Configuration and References

Siemens has proposed load-commutated inverter (LCI) drives for the FLNG project. References for Siemen's LCI offering include a total of 29 continuous duty drives above 30 MW. These Siemens references include a recently manufactured and fully tested order for a complete "all-electric" LNG plant in the Middle East consisting of six (6) VFD (LCI) strings with the largest motors ever built in this type of application, rated at 78 MW and 3000 rpm. The full load test of the string was successfully conducted at the Supplier facilities in Duisburg, Germany. The test results were in accordance with values anticipated including machinery and rotor dynamic aspects. Siemens testing details including job transformers, harmonic filters and balance of auxiliaries (Doc. No. 1008-BR-0160-001.11 titled "Siemens LNG 17 Presentation") were presented by Siemens during the LNG 17 show in Houston, Texas.

These Siemens LCI drive systems are almost identical to that proposed for FLNG. In addition, the systems proposed by Siemens for FLNG are only a modest scale-up in size of the (2) 65 MW LCI continuous duty drive systems they built in 2002 for the Statoil-Hammerfest project. Finally, Siemens has built two (2) LCI continuous duty drives at 47.5 MW and nineteen (19) others ranging from 30 -45 MW.

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Siemens uses a patented converter/inverter parallel connection arrangement with mutually biased, cross-connected DC link reactors to reduce the LCI drive losses.

GE has proposed both LCI drives and VSI drives for the FLNG project. The references for the GE LCI offering include 24 continuous duty drives above 30 MW including four (4) around 40 MW and three (3) (low speed) drives at 65 MW. These GE LCI references are stronger than the GE VSI references discussed immediately below.

GE uses a series cross-connected converter/inverter connection arrangement which reduces lower order LCI inter-harmonics as compared to the Siemens design but with higher drive losses.

GE references include a Prelude LNG test bench in Massa, Italy consisting of one (1) 61 MW drive and 3600 rpm synchronous motor. This VSD test facility system is a voltage source inverter (VSI) based technology. The GE test system has a simple diode (rectifier) front-end converter supplied by three (3) 3-winding transformers each powering a 12-pulse channel, all paralleled to produce a 36-pulse load that results in fewer harmonics imposed onto the electrical grid. The drive output supplying the synchronous motor is from a three (3) parallel-channel pulse-width modulated (PWM) inverter that results in fewer motor side harmonics and inter-harmonic torque excitations. This test system has been successfully operating on an intermittent basis for about 6-8 months. Prior to commissioning the test system, the largest continuous duty drive built by GE using a similar configuration, specifically with a diode rectifier front-end, was a 26 MW single-channel drive in a gas compression application for Anadarko in 2012. GE has built several other similar single-channel drives up to about 20 MW. The 61 MW Massa test drive was, in part, built by GE to demonstrate viability of expanding the single-channel PWM drive to three (3) parallel channels for larger sized applications.

The VSI drive system GE has proposed for FLNG is significantly different and another generation beyond the drive used for their Massa test system. The drive systems proposed for FLNG has an active front end (AFE) that employs PWM rectification with 3-converter/inverter channels operating in parallel to achieve required drive capacity. The AFE converter uses a single 2-winding power supply transformer and has been successfully applied at sizes up to 108 MVA for static frequency converters (SFCs) and static VAR compensators (SVC). The inverter side (i.e., motor side) of this proposed drive design is identical to the GE 61 MW test drive. This drive architecture has all the same advantages (and disadvantages at its present maturity level) as the diode converter VSI drive like the test drive described immediately above. GE has furnished this combination of AFE-PWM (line side) converter with the PWM (motor side) inverter on a total of about 20 special purpose or marine propulsion low speed drives in sizes up to about 20 MW and 1 at 34 MW.. All of these are intermittent duty except for 5 continuous duty rolling mill drives all rated 12 MW. Although these references show that the AFE-PWM converter and PWM inverter designs can be successfully combined at low speed and a relatively smaller size, the drives are not high quality references for the FLNG service. Further, no references exist for a 3-channel VSI synchronous motor drive like that proposed for FLNG with an AFE.

Both GE and Siemens are to revise their proposals to include an option for redundant drive controls having seamless transfer in addition to redundant water/water heat exchangers for drive cooling systems. Also, prior to an award, both GE and Siemens shall, in addition to the other protective functions they have described in their proposals, confirm they will provide phase rotation protection for their drives or explain how the drive controls provide this feature.

Several other drive system requirements are itemized in the MOM documenting discussions at the BCM's with both Supplier's that must be harmonized and resolved for contract inclusion prior to any award.

One more note is appropriate related to the VSD. A stark difference exists between the VSD technologies preferred by each Supplier. This is largely due to rapid advances in the ongoing development of such

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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 investing heavily to refine their product lines to ensure their competitive edge in the LNG market. ZCJV's perception is that the preferred GE electric system is a voltage source inverter (VSI) based system, and the preferred Siemens architecture is based on load commutated inverter (LCI).

The LCI technology is mature and proven in service even at sizes approximating the very large drives required for the FLNG project. However, VSI technology has many advantages in principle over an LCI drive. LCI drives require large harmonic filters and power factor correction capacitors in order to comply with Utility requirements for connection to the grid. In addition, special limitations must be observed for operation of the LCI drive motors in order to avoid damaging torque oscillations that can occur if such limits are ignored. On the other hand, a VSI drive inherently operates at a better power factor and unmistakably reduces the harmonics and inter-harmonics produced by the pulsed switching action of the LCI drive. For these reasons the VSI technology undoubtedly shows tremendous future promise, although it remains to be proven in continuous operation in industrial applications at sizes above 20 – 25 MW.

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.

5.2 Drive Transformers

Transformers for the LCI drive option will be special, rectifier duty units with (4) windings. Transformers for use with VSI drives will be conventional (2) winding units. All transformers are currently planned to be installed in an unclassified area.

There are several points that must be finalized with regard to the transformer design prior to an award;

Transformers will be provided with secondary pre-magnetization furnished with and controlled by the drive start-up system. Transformers are designed to withstand, without any damage or deformation of transformer windings, a bolted secondary short-circuit with the magnitude of short-circuit current limited only by the transformer impedance (i.e., with an "infinite" source connected to the primary)

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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5.3 Main Driver Motors

Technical Discussion

Motor pre-purging is required prior to start up. Continuous purge is not required per Class 1 Div. 2 requirements when the motor is in separate noise housing from the compressor as with the offering from Siemens. GE is offering a single noise enclosure for both motor and compressor, which in all likelihood will require continuous motor purging and more complicated safety shut-down controls for compliance with NEC and API requirements governing the classifications of areas and the electrical equipment installations in hazardous areas.

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

Motors proposed for LCI application will be furnished with double 3-phase (6-phase) windings for better control of motor harmonics. The GE offering for their VSI motor will have a single 3-phase winding with extra insulation to withstand the more severe voltage stresses imposed by the high frequency switching of the VSI PWM action. Both GE and Siemens have been instructed to revise their offerings to include surge capacitors 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 space heaters and 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 either Supplier is to be operated without continuous purge, Supplier must formally confirm motor will operate corona free or, alternatively, with sufficient positive pressure inside the motor enclosure to exclude entrance of any outside atmosphere. One (or both) of these must be true for whenever the motor is running continuously or for “catch-on-the-fly” re-acceleration.

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).

5.4 Harmonic Filters

Both Suppliers presented generally acceptable offerings for the harmonic filters with some differences 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

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the correction needed for Quintana for technical concerns about over voltage. So, there is an apparent disparity (38 vs. 33.7 MVAR) over the amount of correction needed for the drives and other loads at Cortez. Siemens did not provide sizing calculations in their proposal. These calculations have been requested for further review and substantiation.

Prior to selection, both Suppliers must confirm that all filter bus work in harmonic E-houses, including tap buses between filter components, will be fully braced to withstand any imposed short-circuit duty.

ZCJV specified all filter components to be rated to continuously carry 150% of normal harmonic current loading in order to better tolerate filter overvoltage that might occur for a variety of different (abnormal but possible) operating conditions. Siemen communicated compliance with this requirement in their proposal although some confirming clarifications have been requested. The GE offer did not comply and they have been instructed to revise their proposal accordingly.

5.5 Electrical Drive Enclosures (E-Houses)

All E-houses will be installed in unclassified areas.

Both prospective Suppliers have generally acceptable proposals for the E-houses and have included the required blast-resistant design with redundant HVAC systems. Both also have demonstrated a correct understanding of providing the required Power Management and Control System (PMCS) interface for the drive systems and Supplier responsibility for equipment interconnections.

Both Suppliers will furnish separate grounding buses for power and instrumentation inside the E-houses and inside the E-house equipment cabinets. Supplemental lighting shall be provided for every cabinet interior for ease of maintenance.

However, both Suppliers omitted the UPS system and have indicated during the BCM that they will modify their proposals to correct the omission. Both Suppliers also will revise their proposals to include a “patch panel” for each drive system for associated DCS/ICSS circuits, separate from the PMCS panel that ZCJV will furnish for Supplier installation and wiring. Layout details for the E-houses are still being clarified as well.

Details on these and other less significant corrections/clarifications to be addressed prior to an award can be found in the MOM for the BCM’s.

5.6 Gas Insulated Switchgear (GIS) Scope

Both Suppliers have generally acceptable offerings for the Gas Insulated Switchgear (GIS). Siemens will furnish their own GIS equipment while GE has tentatively indicated they will furnish GIS by ABB. This latter point needs to be confirmed, as it is pertinent to the acceptability of GE’s offer. Both have indicated they can achieve the 3 PSI blast-resistance rating requirement for this building.

Both GE and Siemens offered 138 kV outdoor bushings for the building and have been instructed to clarify that they will furnish minimum 170 kV bushings with extra-heavy creep distance as an acceptable alternative to the 245 kV bushings specified. Both Siemens and GE were also instructed to submit information on how the flange collar for the outdoor bushings will be made corrosion-proof.

Both Suppliers have confirmed they will furnish Schweitzer (SEL) relays. Siemens will review and resubmit their proposed GIS protective relaying showing corrections for the differential (#87) and any other affected relaying. Both Suppliers must confirm that bus surge arresters are furnished for the GIS and that acceptable breaker load side cable termination provision is included for 500 kcmil cables.

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Both Suppliers have furnished lead-acid battery banks with redundant battery chargers for the GIS relay protection and controls. ZCJV is to define any AC UPS services that might be required for systems outside of the MR compressor scope such as the communications and monitoring systems.

Suppliers must also furnish a “patch panel” for DCS/ICSS circuits, separate from the PMCS panel that ZCJV will furnish for Supplier installation and wiring.

Details about these and other items to be provided and confirmed by each Supplier are described in the Minutes of Meeting for each respective BCM. Some decisions were changed between the meetings and must be reconciled prior to an award. Also, ZCJV must decide whether the GIS building will be stick-built or furnished by GIS Supplier as originally specified.

5.7 Harmonic Analysis and Other Power System Studies

Both GE and Siemens have performed a preliminary Harmonic Study on the system, which has acceptably demonstrated their ability to address this important area. In addition, these studies have produced preliminary sizing and design of effective harmonic filters. However, neither has fully completed the rigorous Harmonic Study that will be ultimately required to validate drive system design and performance with multiple drives connected to the network.

Siemens will confirm that the required harmonic filter scenarios will be fully examined involving up to loss of the filters associated with 2 drives. Siemens will also confirm as part of the harmonic filter study that losing 2 banks of filters (connected to 2 drives) would not cause a filter overload and will investigate the impact of harmonic distortion on the grid as well as other identified sources of resonances within the plant.

GE has stated they will submit a proposed calculation plan to accomplish a similar investigation.

Compliance with this needs to be confirmed prior to and included with an award.

In addition, the award needs to clearly stipulate and clarify that Supplier is furnishing the other power system studies specified in “Description of Requirements for Electrical Power System Analysis and Associated System Design Development Services”, Doc. No. 0809-000-RT-1620-001.0001.

Finally, a comprehensive grid simulation and study of drive effects on network distortion and machinery excitations as further discussed in other sections of this document must be added as part of the power system studies to be performed by the successful drive Supplier.

5.8 Torsional Stress Analysis

During the proposal phase Siemens has consistently demonstrated a better understanding of the issues related to torsional excitation and other mechanical stresses on the machines and their control. GE has stated they will provide such information later, which seems to indicate they are less able to demonstrate their approach and understanding of the subject. ZCJV had to work with GE and qualify them on the subject; lately, GE, after further instructions, made (similar to Siemens) the complete torsional analysis report concerning short circuit events along with the voltage dip scenario.

Siemens has a Dynamic Simulation tool that can predict compressor behavior during voltage dip situations

The machine couplings (for both Suppliers) are selected with maximum momentary transient torque withstand capability well beyond the torque imposed by short-circuits occurring at the motor terminals.

Prior to award both Suppliers must describe and confirm what information will be furnished to ensure proper design of elevated compressor/motor foundations.

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5.9 Comparison of Drive System Equipment Efficiencies/Losses & Reliability

Comparative reliability performance quotes for the respective critical drive systems are as follows;

Drive (converter/inverter) only	**Siemens LCI**	**GE LCI**	**GE VSI**
MTBF	144,540 hrs.	78,125 hrs.	65,447 hrs.

Quoted drive system rating/efficiency/losses or total load, as appropriate, for each equipment item are as follows. Note each column is calculated on a per drive system basis with loading for equipment item at 100% rating:

Equipment Item	**Siemens LCI**	**GE LCI**	**GE VSI**
Transformer	98.7MVA	96MVA	85MVA
Efficiency	99.67%[4]	99.3%	99.5%
Losses[5]	332 KW	672KW[3]	425KW[3]
Drive	75.1MW	75MW	75MW
Efficiency	99%[4]	98.4%[4]	97.5%[4]
Losses	751KW	1200KW	1875KW
Harmonic Filter	33.7MVAR	44MVAR	N/A
Losses[1]	103 KW	252 KW	N/A
Motor	75.1MW	75MW	75MW
Efficiency[2]	98.1%[4]	98%	98.3%
Losses[2]	1487KW	1500KW[3]	1275KW[3]
Cooling system(s)	225KW	427KW	433KW
Other Losses	7KW	25.2KW	0KW
Total Losses	2,905 KW	4,076 KW	4,008KW

Notes –

1 – Includes A/C power for Harmonic Filter E-house

2 – Includes harmonic losses associated with LCI characteristics.

3 - Calculated based on quoted efficiency.

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4 – Calculated based on quoted losses.

5 – Based on sinusoidal loading

The losses listed in the table above are presented for comparative purposes only, as they are calculated based upon the rated power of the equipment rather than the operating load for each string (Propane, LP MR, and MPHP MR).

The comparative losses are less for LCI drives, and the Siemens LCI losses are significantly less than both GE options. The noticeably lower Siemens losses are a reflection of their LCI topology differences, which utilize the cross-biased DC link reactor mentioned in Section 5.1.

6.0 TESTING

Both Suppliers confirmed during the course of Bid clarification meetings that the following testing is included in the base offer.

1- Motors: seven (7) (six operating + one spare) Routine tests & 1 API 546 Complete test – all witnessed

2- Compressor: three (3) Performance tests (one for each model) & Mechanical running on nine (9) rotors – all witnessed. PTC-10 thermodynamic performance testing will be done according to ASME PTC-10 with acceptable deviations from both Suppliers.

3- Control system functional testing: Unit control panel FAT, witnessed.

4- Lube Oil skid & coolers: all of the Lube Oil auxiliary's factory acceptance testing.

5- Dry Gas Seal panel: Gas Leak Test and functional test. If air is used to test seals, dry air or nitrogen must be used.

In addition, the following string test is recommended:

Train 1 (three compressors strings) full load, full speed testing using a common VFD.

The Evaluation Team recommendation is to perform full load, full speed string tests for the first train only.

It has been determined that there is no need for Back to Back motor tests due to the inclusion of the string tests and motor factory tests.

Siemens' Mega test facility has a 110kV substation at 50Hz connected to the local grid which allows string testing up to 100MW. GE's Massa test facility operates on the local grid at 50Hz and allows string testing up to 100MW as well.

Both Suppliers confirmed that the project equipment will be used during the string tests.

During the String Test(s), aspects that will be confirmed (dependent on technology selected with GE and LCI solution with Siemens) are as follows:

- Compressor – vibration, displacements, white metal temperature of bearings.
- Motor - vibration, displacements, white metal temperature of bearings, winding temperature, raw water temperature, motor full load current, and motor purging.

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- VFD – voltage level in DC link, temperature and pressure of water loop, measurement for thyristors temperature.
- Transformer- voltage, and frequency and current verification

7.0 EVALUATING THE ALTERNATIVE GE VSI PROPOSAL(S)

Mechanical Evaluation:

GE has presented two proposals for compressors with VSI drive systems:

1- Compressors running at 3000 RPM. Evaluation of this proposal is covered in the foregoing sections of this letter.

2- Compressor running at 3800 RPM. Technical data (not a complete proposal) was sent to ZCJV for review subsequent to the Bid Clarification Meetings.

ZCJV is not accepting the 3800 RPM Compressor alternative based on the following:

- Re-optimize the machine such that the impellers are within acceptable references for tested (at a minimum) or installed equipment. ZCJV does not accept impeller references that have not been manufactured and tested.
- Even if the above issue is resolved, impacts to the process design would have to be evaluated by APCI.

Electrical Evaluation:

The VSI proposal by GE has the following advantages and disadvantages:

Advantages

- The VSI drive produces minimal harmonics and produces fewer inter-harmonics as compared to an LCI drive. The VSI architecture produces in a superior voltage/current wave shape for both the network and the motor.
- Due to the reduced harmonics with VSI drives (with an AFE), harmonic filters are nearly eliminated.
- AFE-PWM VSI drives inherently have a better operating power factor (0.95 for DFE & 1.0 for AFE) requiring no power factor correction as compared to LCI drives (0.82) which require power factor correction.
- Standard 2-winding transformers can be used for VSI drives with AFE.
- VSI drives typically have a smaller total equipment footprint.

Disadvantages

- VSI drives lack proven operating history (references) in acceptable design configurations above about 20 – 25 MW. No references exist for 3-channel VSI synchronous motor drives with AFE.
- In case of non-perfect symmetry in the operation of parallel VSI strings, unpredictable torsional failures have occurred due to unexpected inter-harmonic torque excitations in the air gap of the motor. GE has stated their DC link capacitor design will eliminate this

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- VSI drives impose greater voltage stresses on the drive motor windings due to the high dv/dt values associated with PWM switching and the motors have to be built with more insulation or the drive has to include special output filters to control the high dv/dt stresses on the motor insulation.
- Subsynchronous (SSTI & SSCI) effects on the grid (interaction with generator torsional modes or AVR controls) may be more severe and difficult to mitigate with VSI systems.
- Due to component count and relative component performance, VSI drives have a (slightly) lower reliability.

Because of the advantages listed above, VSI drives will probably become the preferred choice for large drives once they demonstrate successful operation in the larger sizes and the disadvantages are better understood and controlled. In the meantime, LCI drive architecture is still the lowest risk, proven choice for large drive applications applied with harmonic filters, for both harmonic abatement and power factor correction, along with established know-how for avoiding motor inter-harmonic issues.

Grid side inter-harmonics or other distortion issues are not well defined or understood, but must be accounted for regardless of the drive type chosen.

8.0 PROJECT EXECUTION CAPABILITIES

Both Siemens and GE have committed to furnish a technical liaison(s) resident in the ZCJV offices. Two such qualified individuals have been requested by the ZCJV project team, one Mechanical specialist with compressor skills and one Electrical specialist with drive application skills. However, neither Siemens nor GE has clarified how many such individuals will be provided. Neither Supplier has submitted resumes showing the area(s) of expertise and technical qualification of any proposed candidates or any other information describing details about how the interface will work with their home office operation.

Both Suppliers presented an executive summary demonstrating the different machinery and power electronics factories capabilities, manufacturing and quality plans, project organization and workflow, after sales site services capabilities and overall project scheduling.

Additional information is required from both Suppliers as to the mechanisms planned to ensure that accurate and timely communications occur between multiple execution centers.

9.0 OVERALL RESPONSIBILITY AND PERFORMANCE GUARANTEES

Overall, both Suppliers comply with the compressor performance guarantees specified in the requisition.

Neither Supplier has provided a fully acceptable statement confirming their intent to comply with the specified performance for the complete electrical system, including required assurances to provide proper system operation and all necessary engineering and equipment. This subject has to be agreed and confirmed prior to award through the proper commercial discussions.

There are legitimate uncertainties associated with the Centerpoint grid and concern over interactions between the large drives and the grid system that could cause troublesome disturbances requiring remedial equipment. Because of this, the Supplier will likely limit guarantees on this issue to standard equipment warrantees along with assurances that all necessary studies will be performed to define any problem and equipment solutions in those areas dependent on variations in the grid characteristics, especially with regard to controlling grid inter-harmonics and machinery Subsynchronous Torsional Interaction (SSTI). Successful confirmation from the Suppliers about providing these studies and other possible assurances remains a significant need. These concerns are further discussed in Section 10, Risk Considerations.

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

10.0 RISK CONSIDERATIONS

This will be a special LNG facility because of the size and nature of the electrical drives used for the Main Refrigerant Compressors and the electrical load the plant will impose on the utility grid. As a result, there are risks associated with the project, the most significant of which can be summarized as follows.

10.1 Compressor Design

Higher Mach number impellers on the Propane Compressor require return channels to be developed with the optimum mixing design aspect of returned flows and side stream flows. CFD analysis is mandatory along with further agreements with the successful bidder on the impeller model test requirements to mitigate the risk of compressor performance. This risk is related to a possible rotating stall that may occur at any individual wheel which can show up only after installing the impellers along with the associated diaphragms and return channels.

The risk associated with the MR-LP Compressor is lower due to the simple machine design (single stage, no side streams loads).

The final design concern involves the MR MPHP Compressor and is associated with the high maximum design pressure of the barrel casing and the difficult maintainability of the non-drive end bearing. However, this risk associated with the MR Compressors is considered minimal due to both Suppliers' proven reference lists for similar compressors.

10.2 Dynamic Compressor Behavior

Sophisticated dynamic simulation studies have to be executed early in the execution phase to avoid undesired or faulty anti-surge valves sizing or even less effective anti-surge algorithms. Hot gas bypass valves can provide a solution for fast responses in dynamic situations. The actual Rotor inertias, piping and complete loop volumes, and Main Driver Motor torque characteristics shall be used in the various startup and emergency shutdown scenarios to predict transient conditions and to verify the capability of the Drive/Motor to start the compressors against settle out conditions (especially the MR MPHP Compressor SOP of 515 psig). The foregoing is considered part of the normal work process and should not impose additional project risk if executed accordingly.

10.3 Control System Interfaces

Interface complexity with the plant control system and with the Main Cryogenic Heat Exchanger will have to be accounted for during the execution phase. System protection will require the Supplier to provide a safe and appropriately redundant equipment control system based on the SIL Assessment and HAZOP reviews.

10.4 Noise Compliance

Meeting the 72dBA sound pressure level will pose challenges to both Suppliers; hence, ZCJV agreed with the Suppliers that they shall guarantee a 105dBA sound power level. Compliance will require acoustic enclosures, the design aspects of which were addressed in earlier sections in this letter. Besides the critical acoustic design requirements, an interface with the successful bidder must occur to prevent improper design of noise acoustics around the process piping underneath the compressor skid. Failure to design process piping noise attenuation or Compressor/Motor enclosure provisions using the governing and/or best technical practices may lead to failure to meet either the noise level or the area classification requirements for inside the enclosures.

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10.5 Drive Equipment

As demonstrated by the information mentioned elsewhere in this report, the electric drives, drive motors, and drive transformers will be among the largest ever built for these services. Accordingly, there is some possibility that problems will occur during manufacturing or testing. Although it is believed such problems can ultimately be solved, they could affect the schedule. This risk can be reduced via selection of the Siemens LCI offering, which has superior references in terms of quantity and similar size. This solution, however, requires foregoing any technical or other perceived advantages associated with a VSI drive system design, including the advantage of reduced harmonics and inter-harmonics available with VSI.

These drives are not only large; they are also non-linear electrical loads which present serious power system challenges even when such loads are relatively small. Traditionally, the problems are essentially confined to harmonics and inter-harmonics either on the motor side or the grid side. Traditional tools are also available to address these problems and they have already been applied to preliminarily assess most issues.

One exception to this is the issue of inter-harmonics and other grid side disturbances which will be further discussed in the section immediately below. In addition, whenever such a large equipment rating scale-up is involved, there is always the possibility that new, previously second order and undefined problems could arise.

Finally, the “unknowns” associated with these type loads are even greater where VSI drives are concerned due to lack of VSI Drives operating experience in these large sizes. It is true that if they did operate successfully as envisioned they would reduce, or even eliminate, some of the problems associated with LCI drives. However, they have even greater uncertainty of success with additional associated risk. These risks could result in Supplier delays and/or equipment performance issues which could affect ZCJV’s ability to meet their contractual obligations.

10.6 Utility Grid and Electrical Load Size/Nature

Because of their world-class size in comparison to the local 138 kV grid capacity, the characteristics of the electric drives will have a potentially dominant effect on the local Centerpoint system. The principle influencing factors, in addition to load alone, are harmonic and inter-harmonics. The harmonics issues are well understood; and preliminary studies have verified that harmonics are nearly nonexistent with VSI drives and that harmonics can be acceptably managed with LCI drives.

To date, grid inter-harmonics and sub-synchronous torque interactions (SSTI) are still being investigated. The concern is that one or both of these effects may “modulate” the grid supply voltage wave or otherwise act in a manner to cause mechanical disturbances to other machines connected to the electrical grid. This could, for example, affect the generator and compressor motors at PTF in addition to machines owned by other Centerpoint customers. Some tools are available to address these phenomena and our present investigation is aimed at determining the likely extent of the problem and its associated issues along with defining what studies and equipment costs might be required to mitigate any associated problems. Unfortunately, this is a relatively unexplored area, and there are no U.S. standards or accepted practices for quantifying or controlling the impact of these conditions on the system. Furthermore, ZCJV does not as yet have any information on Centerpoint requirements related to this subject.

Finally, there remains a concern about the capacity of the local 138 kV grid to adequately accommodate the very large plant loads even from a size standpoint alone.

Clearly, for all these reasons there is a need for greater involvement in this project by Centerpoint going forward.

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10.7 Engineering/Design Execution

To ensure success, this technically complex project will require the Supplier to provide qualified technical support by senior participants, assigned to the ZCJV execution office, having effective communication skills and established channels to all Supplier operations and with the authority to expedite Supplier responses. It is anticipated that both a Mechanical and an Electrical participant will be required fulltime, at least during the early stages of detailed design. As this complex project will require multiple execution centers for either Supplier, ZCJV will have to carefully monitor the performance of the Supplier to make sure appropriate and timely communications are ongoing within the Supplier execution team.

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.

11.0 SUMMARY / RECOMMENDATIONS

In the judgment of the ZCJV Evaluation Team, the Siemens offering is considered technically superior for the following reasons:

- Better predicted performance for the proposed Compressors.
- Lower estimated electrical losses in the Electric Drive System (transformer, VSD, filters, Motor, etc.).
- Superior references for Variable Speed Drives of this size and architecture (LCI).
- Superior references for Motors of this size and architecture.
- Lower risks / unknowns associated with LCI Drive architecture.
- More accurate and timely communications during the proposal stage.

Additionally, the Evaluation Team recommends the following to mitigate some of the risks described in 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.

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- Solicit more information from the Suppliers as to their planned project organization, communication protocols, and work process for executing the project.
- The approved sub-vendor list is subject of discussion with the prospective Suppliers. Documents requirements dates and a quality plan shall be the subject for review during the kickoff meeting with the chosen Supplier.
- Determine through FLNG or other channels, including those at upper management levels if necessary, how to more fully engage the appropriate resources at Centerpoint.
- Ensure Supplier compliance with items documented in the Minutes of Meetings and with other areas of the specifications where, thus far, Suppliers appear to have taken unnecessary exceptions.
- Completion of comprehensive electrical power system studies as outlined in “Description of Requirements for Electrical Power System Analysis and Associated System Design Development Services”, Doc. No. 0809-000-RT-1620-001.0001 is of the utmost importance and must be accomplished and evaluated in the most disciplined, thorough way. In addition, a grid simulation study for evaluation of inter-harmonic distortion and SSTI shall be performed. All such studies should be reviewed and verified, with duplicate studies as appropriate, by a competent studies contractor and supervised in the manner envisioned by the current project plan.
- As soon as possible and consistent with award of this package, efforts should be renewed to identify and engage a third party power system study contractor to audit and review the Supplier studies. Scope and selection of this third party contractor should include consideration of the grid simulation and analysis requirements.
- Confirm that both Suppliers understand and will provide the full system performance as required by the requisition, rather than just a “standard equipment guarantee” as they are presently suggesting in their proposal language. There is certainly a rationale for accomplishing this based on the fact that, in the case of either Supplier, studies are being conducted to confirm equipment/system performance so they, by their own studies, should have some level of comfort and confidence about their design.

  Successful confirmation from the Suppliers about providing these studies and other possible assurances remains a definitive need. Notwithstanding a change in this present approach by the Suppliers to elude their own risk, there will be a need to control what will become ZCJV added risk by carefully placing boundaries on the final performance guarantees provided to FLNG with respect to performance as it relates to operation of the Centerpoint system. ZCJV may have to settle for assurances from the successful Supplier that all necessary studies will be performed to define any problem and equipment solutions in those areas dependent on variations in the grid characteristics, especially with regard to controlling grid inter-harmonics and machinery SSTI.

12.0 ATTACHMENTS & REFERENCES (ON HOLD. TO BE AGREED IN THE NEXT TEAM MEETING)

Document Number	Description
179811-1008-BR-0160-001.02	Technical Compressors Tabulation
179811-1008-BR-0160-001.03	Scope of Supply Tabulation Sheet (w/ Commercial)
179811-1008-BR-0160-001.04	Siemens Bid Query List

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

Document Number	Description
179811-1008-BR-0160-001.05	GE Oil and Gas Bid Query List
179811-1008-BR-0160-001.06	Siemens Technical Exceptions and Deviations Summary (TEDS)
179811-1008-BR-0160-001.07	GE Technical Exceptions and Deviations Summary (TEDS)

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EXHIBIT 3

February 14, 2014 Letter to FLNG [Docket No. 1187-1, Ex. 2]

Chet Lloyd
C/Z JV Project Executive

6001 Rogerdale Dr.
Houston, Texas 77072
Tel: 713 375-8391
Fax: 713 375-8025
Email: lloydc@zhi.com

February 14, 2014

Freeport LNG Expansion, L.P.
333 Clay Street, Suite 5050
Houston, Texas 77002-4123

Reference: 0809-CZJV-FPT-L-00001.0001

Attention: Taylor Auburg
FLNG Project Director

Subject: FLNG Liquefaction Project - C/Z JV Main Refrigeration Compressors
Purchase Assessment Summary and Recommendation

Reference: EPC Contract - LNTP No. 2 - March 15, 2014 Release

Dear Taylor:

This letter is provided to summarize C/Z JV's recommended vendor selection for the Main Refrigerant Compressor equipment for the FLNG Liquefaction project. The Main Refrigerant Compressor equipment consists of four (4) compressors and three (3) electric motor drives along with variable speed drive and ancillary equipment for each Liquefaction Unit 1 & 2.

In 2013 C/Z JV solicited bids for the supply of the refrigeration equipment from Siemens Energy, Inc. and GE Oil and Gas based on prior discussion and detailed reviews between FLNG and the JV. This recommendation is based on technical and commercial assessment of their competitive bids over the previous six (6) months

The following categories were evaluated and finalized by C/Z JV from quotations, workshops with the vendors, individual queries and review of detailed vendor submittals:

- Delivery Information including ex Works manufacturing durations after order placement and shipment duration permitting C/Z JV to maintain the contractual 48/54 month schedule.
- Cost Information including order value and schedule of payment.
- Technical and Operating considerations including annual electrical usage and LNG production efficiency.
- Constructability issues, accessibility and organization of the assembled parts from crates and shipment containers, and field technical support from Technical representatives.
- Expertise of the presenting teams and access to information whether compressor or motor drive related.
- Ability of team to work with the C/Z JV.
- Proven capabilities of the compressors and motors based on previous fabrication of this world-class size equipment – mechanical and electrical.

Based on the above criteria, C/Z JV determined both vendors demonstrated overall technical acceptability for supply of the equipment for the FLNG Liquefaction Project. C/Z JV recommend Siemen's as the Main Refrigerant Compressor equipment vendor for the following reasons:

- Lower total cost,
- Experience in the production of the electric motor drive train in the 75MW size for LNG projects,
- C/Z JV evaluations and calculations indicate improved annual electrical usage and resultant LNG production efficiency for the Siemens compressor/motor drive for the project.

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Both Vendors indicated a concern and need to address the possibility of electrical harmonics and inter-harmonics on the facility electrical operation and externally on the CenterPoint Energy 138 KV grid attributable to motor start and operation. Accordingly they have provided commitments to run harmonic stability studies to address this concern and indicated confidence they could control the impacts through various mitigation strategies and achieve results within the guidelines provided by international standards.

The robustness of the CenterPoint grid and electrical dampening equipment used by CenterPoint is not known to C/Z JV. If further mitigation efforts were required by CenterPoint for their customers, beyond those required to achieve the results in accordance with the international standards, C/Z JV would participate and collaborate with FLNG and CenterPoint. The costs associated with a hardware solution if required by CenterPoint are indeterminate and not included in the C/Z JV project budget.

C/Z JV stands ready to meet with FLNG to review this selection on Tuesday February 18, 2014 at 9AM in order to expedite release of the purchase order for the main compressors by March 15, 2014.

In the event FLNG elects to move forward with GE Oil and Gas equipment, C/Z JV would appreciate written confirmation no later than Friday February 21, 2014 in order to make necessary changes to paperwork for a purchase order with them. The choice of GE Oil and Gas equipment will necessitate a change order to the EPC contract for US$10,010,235 X 1.19 = US$ 11,912,179 (evaluated differential cost plus mark-up). The commercial bid tab reflecting this differential is attached for FLNG reference.

Additionally, the evaluated cost for both compressor vendors does not include a number of owner preferred options which require further discussion and agreement prior to inclusion in the contract price and main compressor vendor purchase orders

Sincerely

Chet Lloyd

Chet Lloyd
C/Z JV Project Executive
281-384-7325

Attachment: Commercial Bid Analysis for Main Refrigeration Compressors

cc: M. Mallett
S. Dedman
R. Biediger
G. Humphrey
P. Rano
J. Dobler
M. Carney
E. Kennedy
R. Schilhab

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EXHIBIT 4

FLNG's February 21, 2014 Letter [Docket No. 1187-1, Ex. 3]

Correspondence No.: 0809-FPT-CZJV-L-00001.0001

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 of the Freeport Train 1 Liquefaction Project by and between Owner and Contractor, dated December 10, 2013 and Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project by and 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 0809-CZJV-FPT-L-00002.0001, both dated February 14, 2014. Pursuant to the requirements in Attachment DD and 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.
2. Purchase the Main Cryogenic Heat Exchanger from APCI
3. Purchase engineering only for the Air Coolers in the Liquefaction Facility from FBM 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 Freeport Liquefaction Project Train 2.

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

Regards,

Taylor Auburg
Project Director

EXHIBIT 5

Supplemental Declaration of Ralph Biediger in Support of Debtors' Objection to FLNG Contract Claims [Docket No. 1379]

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)
	)	**Re: Docket No. 1187**

SUPPLEMENTAL DECLARATION OF RALPH BIEDIGER IN SUPPORT OF THE DEBTORS' OBJECTION TO THE FLNG CONTRACT CLAIMS [CLAIM NOS. 1443, 1499, 1500, 1501, 1502, AND 1523]

I, Ralph Biediger, the President, Construction Group, of Zachry Industrial, Inc. ("**ZII**"), declare pursuant to 28 U.S.C. §1746 as follows:

1. I am the President, Construction Group, of ZII.

2. On October 18, 2024, I submitted a declaration (the "**Declaration**") in support of the *Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523]* (the "**Objection**").[2]

3. I submit this Supplemental Declaration in further support of the Objection to clarify paragraph 16 of the Declaration.

4. In paragraph 16 of the Declaration, I stated that "The three trains became operational and began exporting liquified natural gas in December 2019 (Train 1), January 2020 (Train 2), and May 2020 (Train 3). Thus, I understand the Defect Correction Period for Trains 1, 2, and 3, respectively, expired no later than June 2021, July 2021, and November 2021."

[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.

[2] Capitalized terms used but not defined in this Supplemental Declaration shall have the meaning ascribed to such terms in the Declaration or the Objection, as applicable.

5. The Defect Correction Period I referenced in paragraph 16 of the Declaration was the original or initial Defect Correction Period that applied to Contractor's warranty obligations with respect to the 75 Mega-Watt motors manufactured by General Electric (GE) referenced in paragraph 7 of the Declaration.

6. The Defect Correction Period was extended for an additional twelve (12) months pursuant to Article 12.3B of the EPC Contracts for Corrective Work performed on Trains 1, 2, and 3.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: November 11, 2024

/s/ Ralph Biediger
Ralph Biediger
President, Construction Group, Zachry Industrial, Inc.

EXHIBIT 6

Proof of Claim No. 1443

Your claim can be filed electronically on Verita's website at https://www.veritaglobal.net/zhi

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

United States Bankruptcy Court for the Southern District of Texas, Houston Division

Indicate Debtor against which you assert a claim by checking the appropriate box below. (**Check only one Debtor per claim form.**)

☐ Zachry Holdings, Inc. (Case No. 24-90377)	☐ Zachry Constructors, LLC (Case No. 24-90384)	☐ Zachry Maintenance Services, LLC (Case No. 24-90395)
☐ Computer Simulation & Analysis, Inc. (Case No. 24-90391)	☐ Zachry Engineering Corporation (Case No. 24-90379)	☐ Zachry Nuclear Construction, Inc. (Case No. 24-90388)
☐ J.V. Industrial Companies, LLC (Case No. 24-90396)	☐ Zachry Enterprise Solutions, LLC (Case No. 24-90386)	☐ Zachry Nuclear Engineering, Inc. (Case No. 24-90390)
☐ JVIC Fabrication, LLC. (Case No. 24-90393)	☐ Zachry EPC Holdings, LLC (Case No. 24-90378)	☐ Zachry Nuclear, Inc. (Case No. 24-90389)
☐ Madison Industrial Services Team, LLC (Case No. 24-90397)	☐ Zachry High Voltage Solutions, LLC (Case No. 24-90381)	☐ Zachry Plant Services Holdings, Inc. (Case No. 24-90392)
☐ Moss Point Properties, LLC (Case No. 24-90387)	☐ Zachry Industrial Americas, Inc. (Case No. 24-90394)	☐ ZEC Michigan, Inc. (Case No. 24-90383)
☐ UE Properties, Inc. (Case No. 24-90382)	☒ Zachry Industrial, Inc. (Case No. 24-90385)	☐ ZEC New York, Inc. (Case No. 24-90380)

Modified Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed, May 21, 2024.

Part 1: Identify the Claim

1. **Who is the current creditor?**

FLNG Liquefaction, LLC
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☒ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

(see addendum for full notice list)

Where should notices to the creditor be sent?

FLNG Liquefaction, LLC
Name
333 Clay Street, Suite 5050
Number Street
Houston, TX 77002-4173
City State ZIP Code
United States of America
Country
Contact phone 713-980-2888
Contact email sottis@freeportlng.com

Where should payments to the creditor be sent? (if different)

Name
Number Street
City State ZIP Code
Country
Contact phone _____
Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☒ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: **Give Information About the Claim as of the Date the Case Was Filed**

6. **Do you have any number you use to identify the debtor?**

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ Undetermined. **Does this amount include interest or other charges?**

☐ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

If applicable, the claim must include information regarding payment received from any third party on account of, in connection with, or otherwise relating to the claim. Please list such information in the supporting documentation to the claim.

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Breach of contract action - see attached addendum

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

9. **Is all or part of the claim secured?**

☒ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☒ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☒ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/13/2024
MM / DD / YYYY

Shaw Ottis
Digitally signed by Shaw Ottis
Date: 2024.09.13 14:46:46 -05'00'
Signature

Print the name of the person who is completing and signing this claim:

Name: Shaw (First name) Christopher (Middle name) Ottis (Last name)

Title: SVP, General Counsel & Secretary

Company: FLNG Liquefaction, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 333 Clay St., Suite 5050
Number Street

Houston (City) TX (State) 77002 (ZIP Code) USA (Country)

Contact phone: 713-980-2894 Email: sottis@freeportlng.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*,[1]	Case No. 24-90377 (MI)
Debtors.	(Jointly Administered)

ADDENDUM TO PROOF OF CLAIM OF FLNG LIQUEFACTION, LLC

FLNG Liquefaction, LLC ("FLNG") hereby submits this addendum to its Proof of Claim (the "Claim") against Zachry Industrial Inc. ("Zachry") and respectfully states as follows:

Background

1. On April 23, 2024, FLNG and affiliated entities filed suit in the 133rd Judicial District Court of Harris County, Texas (the "State Court"), asserting a state law breach of contract claim against Zachry, CB&I, Inc., and Chiyoda International Corporation after discovering significant defects in the performance of their work on a natural gas liquefaction and liquified natural gas export facility, resulting in substantial costs, the shut-down of operations, and other damages (the "Facilities Defects Case"). **Exhibit B**.

2. On May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, jointly administered under Case No. 24-90377.

3. On July 31, 2024, Zachry removed the Facilities Defects Case from State Court to

[1] The debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/zhi. The Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. 1452(a).

4. On August 28, 2024, the Facilities Defects Case was referred to this Court.

5. FLNG's Claim against Zachry is predicated on its breach of contract claim asserted in the Facilities Defects Case, which in turn is predicated on Zachry's breach of various provisions under the *Fixed Price Separated Turnkey Agreement for the Engineering, Procurement, and Construction of the Freeport Train 1 Liquefaction Project by and between FLNG Liquefaction, LLC as Owner and Zachry Industrial, Inc. and CB&I Inc. as Contractor* (the "EPC") dated December 10, 2013. *See* **Exhibit C**. The Facilities Defects Case is yet to be adjudicated and is currently pending under Civil Action No. 4:24-CV-2841. On information and belief, an adversary proceeding number has not yet been assigned.

6. Because of the voluminous nature of the documents supporting this Claim, the fact that such documents contain confidential or commercially sensitive information, and based on consent from the Debtors, not all such documents are annexed hereto. FLNG has made or will make such documents available to the Debtors. Such documents will also be made available to the Official Committee of Unsecured Creditors upon written request and subject to appropriate confidentiality restrictions.

Reservation of Rights

7. FLNG does not waive, and expressly reserves, (i) all rights and remedies at law or in equity that FLNG has or may have against Zachry, any of the Debtors, any of their respective affiliates and subsidiaries, or any other person or entity who may be liable for all or part of the claims set forth herein; (ii) any obligation owed to FLNG or any right to any security or to assert any security interest that may be determined to be held by FLNG; (iii) FLNG's right to have final orders in non-core matters, or core matters to which *Stern v. Marshall* applies, entered only after

de novo review by a United States District Court Judge; and (iv) any right to (a) withdraw the reference, or otherwise challenge the jurisdiction of the Court, with respect to the subject matter of the Claim, any objection or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG, (b) assert that the reference has already been withdrawn with respect to the subject matter of the Claim, any objection or other proceeding commenced with respect thereto or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG, or (c) seek adjudication of its Claim in any court of competent jurisdiction on any basis, including mandatory abstention, permissive abstention, or equitable remand.

8. The filing of this Claim is not, nor shall it be deemed or construed to be: (i) a waiver or release of any term or provision of any agreement between FLNG and Zachry or any agreement governing the relationship between FLNG and Zachry; (ii) an election of remedies or waiver of any past, present or future breaches of any agreement between FLNG and Zachry or any agreement governing the relationship between FLNG and Zachry; (iii) a waiver or limitation of any procedural or substantive rights of FLNG or any procedural or substantive defenses to any claim that may be asserted against FLNG; (iv) a waiver or release of, or any other limitation on, FLNG's right to assert that any portion of the claims asserted herein or any other claims are entitled to priority, including, without limitation, under sections 503(b) and 507(a)(2) of the Bankruptcy Code; (v) a waiver of any right to claim specific assets; or (vi) a waiver or release of any lien or security interest. In addition, FLNG reserves the right to withdraw this Claim in its entirety or with respect to any portion thereof for any reason whatsoever.

9. FLNG expressly reserves the right to (i) amend, modify, update, or supplement the Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify, or correct amounts, to provide additional detail regarding the claims set forth

herein, to fix the amount of any disputed, contingent or unliquidated claim, or to assert any alternative theories or bases for recovery; (ii) file additional proofs of claim, administrative expense claims or requests for payment of any administrative expenses, or pleadings for additional claims that may be based on the same or additional documents; and (iii) assert any and all other claims, actions, defenses, setoffs, recoupments, rights, right of action, causes of action, claims or remedies of whatever kind or nature that it currently has, or may have in the future against the Debtors and/or any of their respective affiliates and subsidiaries, or any other person or entity (including, without limitation, guarantors, partners, officers, directors, and other creditors of the Debtors), at law or in equity, including, without limitation, administrative or other priority claims, lien rights, interests, and the right to assert claims that are otherwise warranted in any related actions. This Claim is filed without prejudice to the filing by FLNG of additional proofs of claim or administrative expense claims with respect to any other liability or indebtedness of and/or equity interest in the Debtors.

10. FLNG does not waive or release any of its rights to amounts due for any claim asserted herein by not ascribing a specific dollar amount thereto at this time, and FLNG expressly reserves the right to amend or supplement this Claim if it deems it necessary or appropriate, to assert and state an amount for any such claim.

11. The Claim is not subject to objection, defense, setoff, recoupment, or counterclaim of any kind by the Debtors. FLNG expressly reserves and does not waive any objections, defenses, rights of set-off or recoupment, or counterclaims, that it may possess. No judgment has been rendered on the Claim.

12. By filing this Claim, FLNG does not consent to or submit itself to the jurisdiction of the Court for any purpose except in respect of the allowance of this Claim for any and all

amounts due in connection herewith.

Notices

13. All notices, communications, and distributions in respect of this Claim should be delivered to:

FLNG Liquefaction, LLC
333 Clay St., Suite 5050
Houston, TX 77002
Attention: Shaw Christopher Ottis
Phone: 713-980-2894
Email: sottis@freeportlng.com

And

Christopher Taylor
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2058
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1100 Louisiana, Suite 4100
Houston, TX 77002
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EXHIBIT B

Case 4:24-cv-01958 Document 1-6 Filed on TXSB on 05/06/24 Page 1 of 16
4/23/2024 10:57 AM
Marilyn Burgess - District Clerk Harris County
Envelope No. 86955386
By: Bernitta Barrett
Filed: 4/23/2024 10:57 AM

Cause No. _____

FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	**_____ JUDICIAL DISTRICT**
v.	§	
CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION	§	**HARRIS COUNTY, TEXAS**
Defendants.		

PLAINTIFFS' ORIGINAL PETITION

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, 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.

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III. DISCOVERY LEVEL

3. This case is intended to be conducted under Discovery Level 3 in accordance with Texas Rule of Civil Procedure 190.4.

IV. PARTIES

4. Plaintiff FLNG Liquefaction, LLC ("FLIQ1") is a Delaware limited liability company with its principal place of business in Houston, Texas.

5. Plaintiff FLNG Liquefaction 2, LLC ("FLIQ2") is a Delaware limited liability company with its principal place of business in Houston, Texas.

6. Plaintiff FLNG Liquefaction 3, LLC ("FLIQ3") is a Delaware limited liability company with its principal place of business in Houston, Texas.

7. Defendant CB&I Inc. ("CB&I") is a Texas corporation with its principal place of business in Houston, Texas. CB&I may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Zachry Industrial, Inc. ("Zachry") is a Delaware corporation with its principal place of business in San Antonio, Texas. Zachry may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Chiyoda International Corporation ("Chiyoda") is a Washington corporation with its principal place of business in Houston, Texas. Chiyoda may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

V. JURISDICTION & VENUE

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.020 because the written agreements at issue involve "major transactions" as defined

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under the statute, and the parties agreed to venue in Harris County. Specifically, the agreements at issue provide that each party "irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas."

11. This Court has subject matter jurisdiction over this dispute because the amount in controversy is within the jurisdictional limits of this Court.

12. This Court has personal jurisdiction over Defendants because they are citizens of Texas by virtue of having their principal places of business in Texas. Further, Defendants conduct business in Texas, including but not limited to, by entering into contractual relationships and performing work in Texas and maintaining offices and employees in Texas. Defendants have purposefully availed themselves of the benefits and protections of the State of Texas by establishing minimum contacts here, and this Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

VI. FACTUAL BACKGROUND

A. Freeport LNG's Quintana Island Facility

13. Freeport LNG Development, L.P. ("Freeport LNG") is one of the first and largest exporters of LNG. With its joint venture partners, Freeport LNG owns and operates an LNG facility located on Quintana Island near Freeport, Texas (the "LNG Facility").

14. The LNG Facility was previously an LNG import and regasification facility (the "Regas Facility") featuring two 160,000 cubic meter LNG storage tanks, a marine dock that could accommodate the largest LNG tankers in service, and an LNG vaporization system capable of producing over 2 billion cubic feet (Bcf) of gas per day. Construction on the Regas Facility started in 2005, and commercial operations began in 2008. However, by the time the import terminal commenced operations in 2008, the North American natural gas industry had begun to experience

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a sea change—the shale gas revolution.

15. In 2010, to take advantage of excess domestic natural gas reserves due primarily to improvements in extracting gas from shale, Freeport LNG began a project to transform the Regas Facility from an import terminal into a natural gas liquefaction and LNG export facility (as defined above, the "LNG Facility").

16. LNG is natural gas that is super-cooled to transform it from a gaseous state into a liquid for ease and safety of non-pressurized storage and transport. Natural gas is converted to a liquid in a liquefaction plant that performs a sequence of processes, which is often referred to as "liquefying" the natural gas. This liquefaction process takes place in processing units that are often referred to as "trains."

17. The LNG Facility, which currently has three liquefaction processing units, or trains, is the first world-scale electric-powered LNG plant in North America. Train 1 was commissioned and began commercial operations in December 2019. Train 2 and Train 3 commenced operations in January and May 2020, respectively. When operating at full capacity, the output from the Facility's three liquefaction trains is enough to decrease the United States trade deficit by 1-2% alone.

18. Each liquefaction train at the LNG Facility uses three General Electric 75 MW motors that power three propane and mixed-refrigerant compressors. The electric motors used at the LNG Facility were selected to allow Freeport LNG to comply with strict local air emissions standards and meet its production and export targets.

B. The EPC Contracts

19. FLIQ1, FLIQ2, and FLIQ3 are affiliates of Freeport LNG.

20. FLIQ1 developed the first LNG train ("Train 1"). FLIQ2 developed the second

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LNG train ("Train 2"), and FLIQ3 developed the third LNG train ("Train 3").

21. FLIQ1 and FLIQ2 selected CB&I and Zachry, through a joint venture arrangement, to provide all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 1 and Train 2 on a fixed price, turnkey basis.

22. On December 10, 2013, FLIQ1 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 1 EPC Contract").

23. Also on December 10, 2013, FLIQ2 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project ("Train 2 EPC Contract").

24. FLIQ3 selected CB&I, Zachry and Chiyoda, through a joint venture arrangement, to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 3 on a fixed price, turnkey basis.

25. On March 24, 2015, FLIQ3 entered into a Fixed Price Separated Turnkey Agreement with CB&I, Zachry, and Chiyoda for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 3 EPC Contract").

26. The pertinent provisions of the Train 1 EPC Contract, Train 2 EPC Contract, and Train 3 EPC Contract are virtually identical and are referred to collectively in this Petition as the EPC Contracts. CB&I, Zachry, and Chiyoda, as applicable, are referred to in the EPC Contracts collectively as "Contractor," and will be collectively referred to as "Contractor" in this Petition.

C. Defendants' Obligations Under the EPC Contracts

27. The EPC Contracts establish Contractor's substantive performance standards for the Work. Among other obligations, Defendants agreed to perform all engineering, design,

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manufacturing, and fabrication work for Trains 1, 2, and 3 in accordance with applicable codes and standards and in accordance with good engineering and construction practices.

28. Specifically, Section 2.5C of the EPC Contracts provides that:

> "***Contractor shall perform the Work in accordance*** with Applicable Law and ***Applicable Codes and Standards***, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work." (emphasis added).

29. Section 3.1A of the EPC Contracts provides that:

> "***the Work*** shall be performed on a turnkey basis and ***shall include*** all ***engineering***, ***procurement,*** construction, pre-commissioning, start-up and testing of the Train [1, 2, and 3] Expansion, all ***Equipment***, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, ***workmanship, inspection, manufacture***, ***fabrication***, installation, ***design***, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

30. Section 3.1A of the EPC Contracts further provides that:

> "***Contractor shall perform the Work in accordance with GECP***, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement." (emphasis added).

31. The EPC Contracts define "Good Engineering and Construction Practices" or "GECP" as:

> "***the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards*** employed by the liquefied natural gas engineering and construction industries with respect to: (i) the ***engineering, procurement,*** construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A." (emphasis added).

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32. Section 3.2A of the EPC Contracts provides that Contractor's specific obligations include to "***procure***, supply, transport, handle, properly store, ***assemble***, erect and install all ***Equipment***." (emphasis added).

33. Section 3.2B of the EPC Contracts provides that Contractor's specific obligations include to:

> "provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, ***inspection and quality control services required to ensure that the Work is performed in accordance herewith***." (emphasis added).

34. Section 3.2D of the EPC Contracts requires that the Contractor "perform shop and other inspections of the work of Subcontractors and Sub-subcontractors ***to ensure that such work meets all of the requirements of this Agreement***." (emphasis added).

35. Section 3.2R of the EPC Contracts requires that the Contractor "***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement***, including that specified in Section 3.3." (emphasis added).

36. Section 3.3A of the EPC Contracts provides that:

> "Contractor shall, as part of the Work, ***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement*** and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

37. Section 3.3C(6) of the EPC Contracts provides that:

> "Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and ***in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control***." (emphasis added).

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38. Section 3.3D of the EPC Contracts provides that:

> "***Contractor shall perform***, or cause to be performed, all design and ***engineering work in accordance with Applicable Law and Applicable Codes and Standards***, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law." (emphasis added).

39. Section 8.2B of the EPC Contracts provides that Contractor remains responsible for breaches of its obligations under the EPC Contracts following Substantial Completion:

> "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2, and 3] Expansion and each component thereof … after Substantial Completion of the Train [1, 2, and 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." (emphasis added).

40. Section 12 of the EPC Contracts establishes Contractor's Warranties for its Work. Specifically, under Section 12.1B of the EPC Contracts, Contractor warrants that the Work "including Equipment, and each component thereof" shall be:

> "1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;" "2. ***in accordance with all of the requirements of this Agreement***, ***including in accordance with GECP***, Applicable Law and Applicable Codes and Standards;" and "4. ***free from defects in design, material and workmanship***." (emphasis added).

41. Section 12.1C of the EPC Contracts provides:

> "Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; provided, however, ***Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement***, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as ***Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work***." (emphasis added).

42. Section 12.1C of the EPC Contracts further provides:

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> "All such [Subcontractor and Sub-subcontractor] warranties shall be ***deemed to run to the benefit of Owner*** and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be ***enforceable by Owner upon Substantial Completion***. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit ***direct enforcement by Contractor or Owner*** against any Subcontractor or Sub-subcontractor whose warranty is called for." (emphasis added).

43. Section 12.1C of the EPC Contracts also establishes that:

> "***Contractor is jointly and severally liable*** with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty."

44. Section 12.3 of the EPC Contracts establishes Contractor's obligation to perform Corrective Work during the Defect Correction Period, which is defined as the 18-month period following Substantial Completion. However, Section 12.3D of the EPC Contracts makes clear that Contractor remains responsible to Owner for failures to comply with its Warranties under the EPC Contracts:

> "Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the ***Defect Correction Period*** relates only to the specific obligation of Contractor to perform Corrective Work, and ***has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work***." (emphasis added)

D. Defects in the Trains' Motors

45. While the Project experienced Contractor execution delays and other difficulties, after Trains 1, 2, and 3 began commercial operations, no significant defects in Defendants' work were discovered after the expiration of the 18-month Defect Correction Period until recently.

46. On January 17, 2024, the Train 3 Propane Compressor 75 MW Motor ("75 MW Motor") tripped and remained offline, despite several attempts to restart it. Initial investigations indicated that the likely cause of the trip was an electrical fault within a non-accessible portion of

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the 75 MW Motor. A subsequent root cause analysis ("RCA") determined that the direct cause of the 75 MW Motor failure was an electrical short caused by loose hardware (bolts, nuts and washers) within the 75 MW Motor that dislodged from a protective panel where they were installed and fell into the 75 MW Motor windings.

47. Specifically, the RCA identified the following root causes of the loose hardware:

a. *Deficient bolt/washer/nut retention assembly design*: Design was not in accordance with manufacturer recommendations or Good Engineering and Construction Practices ("GECP"). Specifically, ***locking nuts were not used to ensure that the hardware remained tightened in place*** within the 75 MW Motor during normal operations within vibration integrity limits. Additionally, ***Nord-Lock washers were placed on only one side of the bolt step up***, which we understand ***is not in accordance with manufacturer recommendations*** that require a Nord-Lock washer on both the bolt and nut sides for proper fastening.

b. *Inadequate quality assurance/quality control during assembly*: There was ***defective workmanship during assembly, including the use of improper parts, as well as differing metals for similar parts***. For example, bolt assembly components in the 75 MW Motor were a mixture of stainless steel and carbon steel parts, and a large shim washer was found within the 75 MW Motor and is not an approved material in the bill of materials, nor is the use of shim washers part of the proper design of the bolt assembly. In addition, ***multiple bolts were identified as being inadequately torqued***.

48. Similar defects have been identified in two other Train 3 motors, which will also require repairs.

49. The RCA identified a separate Defect in the 75 MW motor that also requires repair in order to prevent premature failure in the future. Specifically, significant partial discharge was found on the cable bundles going from the stator to the motor termination boxes in the 75 MW motor. The cause of the discharge was determined to be the excessive length of the cables and the increased bend radius of the cabling. Cable sheath and insulation damage due to excess partial discharge was also found in the other Train 3 motors, requiring repairs to all three Train 3 motors before they could be placed back into service.

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50. The same 75 MW Motor are utilized in Trains 1 and 2 of the LNG Facility. Given the prevalence of the Defects in the Train 3 motors, Plaintiffs believed that it was likely that the motors in Trains 1 and 2 are affected by the same Defects.

51. As a result, Plaintiffs implemented enhanced monitoring of Trains 1 and 2 and planned to perform inspections of Trains 1 and 2 after the repairs to Train 3 were completed. However, the enhanced monitoring performed on the Train 1 and 2 motors identified an increase in partial discharge and current abnormalities in one of the Train 2 motors. As such, Train 2 was taken offline for inspection prior to the completion of the repairs to Train 3.

52. Inspections of the Train 2 motors revealed additional workmanship issues, even moreso than those found in the inspections of the Train 3 motors. Not only did all 6 bolt assemblies dislodge from the protective micarta panel (as they did in the damaged Train 3 motor), but the micarta panel itself partially separated due to an approximately two-foot long bolt assembly dislodging from the underside of the panel. While one of the two-foot long bolt assemblies remained in place, the other bolt assembly became fully dislodged from the protective panel and appears to have dropped into the rotor portion of the motor and sheared into numerous smaller pieces (which caused additional damage to the motor internals).

53. The inspection of the Train 2 motor also identified substantial damage to the insulation on the motor's stator. The preliminary boroscope inspection of Train 2's 12K-31 motor identified that some bolt assemblies have dislodged from the micarta panels.

54. Given the extent of the faulty workmanship and poor condition of the bolt assemblies and cabling supports identified in Train 2, Plaintiffs made the decision to take Train 1 offline immediately to mitigate any possibility of damage to the Train 1 motors.

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55. FLIQ3 has incurred damages, costs, losses, and expenses as a result of the failure of the 75 MW motor on Train 3 and Contractor's failure to comply with its obligations and Warranties under the EPC Contracts, including investigatory and repair costs, removal and transportation costs for the 75 MW motor to be taken from its installed location to and from the off-site facility for repairs, costs to install a spare 75 MW motor into Train 3, and other costs and expenses incurred by FLIQ3 as a result of the Defects. FLIQ3 also incurred additional damages, costs, losses and expenses to carry out preventative maintenance on the other Train 3 motors.

56. FLIQ1 and FLIQ2 have or will incur similar damages, costs, losses and expenses as a result of the Contractor's failure to comply with its obligations and Warranties under the EPC Contracts in connection with the motors on Trains 1 and 2.

57. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim.

58. All conditions precedent to filing this action have or will soon occur.

VII. CAUSES OF ACTION

A. Breach of the EPC Contracts

59. Plaintiffs incorporate and reallege the preceding allegations as if fully set forth below.

60. Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts.

61. Defendants have breached their substantive performance obligations under Articles 2 and 3 of the EPC Contracts, as well as their Warranty obligations under Article 12 of the EPC Contracts, by at least the following acts and omissions:

a. Contractor's deficient bolt/washer/nut retention assembly design and its

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inadequate quality assurance/quality control during assembly,

b. Contractor's excessive cable length and increased bend radius of cabling resulting in significant partial discharge on the cable bundles, and

c. Contractor's deficient bolt assemblies, causing the bolts to become dislodged from the micarta panels and separation of the micarta panels themselves.

62. Defendants' acts and omissions constitute a breach of their obligations under the EPC Contracts, including, *inter alia*, the obligations to:

a. perform engineering, design, manufacture and fabrication "in accordance with the requirements of this Agreement" under Section 3.1A;

b. "perform the Work in accordance with GECP" under Section 3.1A, which includes "reasonable and prudent practices, methods, skill, care, techniques and standards" for the engineering, design and construction of LNG facilities;

c. "procure" and "assemble, erect and install all Equipment" under Section 3.2A;

d. "provide … inspection and quality control services" under Section 3.2B;

e. inspect the Work of their Subcontractors and "ensure that such work meets all the requirements of this Agreement" under Section 3.2D;

f. "perform, or cause to be performed, all design and engineering Work in accordance with this Agreement" under Section 3.2R and the equivalent language of Section 3.3A;

g. comply with their Warranty that the Equipment and each component thereof

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shall be "new, complete and of suitable grade for the intended function and use in accordance with this Agreement" under Section 12.1B(1);

h. comply with their Warranty that the Equipment and each component thereof shall be "in accordance with all of the requirements of this Agreement, including in accordance with GECP" under Section 12.1B(2); and

i. comply with their Warranty that the Equipment and each component thereof shall be "free from defects in design, material and workmanship" under Section 12.1B(3).

63. Plaintiffs have been damaged and are entitled to recover all amounts caused by Defendants' breaches of the EPC Contracts.

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

65. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim. Pursuant to Texas Civil Practice & Remedies Code § 38.001, Plaintiffs are entitled to recover its reasonable and necessary attorneys' fees.

VIII. REQUEST FOR RELIEF

66. Plaintiffs respectfully requests that Defendants be cited to appear and answer, and that Plaintiffs be granted judgment including the following relief:

a. all damages caused by Defendants' breaches of the EPC Contracts;

b. pre-judgment and post-judgment interest at the highest allowable rate;

c. costs and reasonable and necessary attorneys' fees; and

d. all other relief to which Plaintiffs are entitled.

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Respectfully Submitted,

s/ *Mike Stenglein*

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ATTORNEYS FOR PLAINTIFFS FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC

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EXHIBIT C

Execution Version

FIXED PRICE SEPARATED TURNKEY AGREEMENT

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

FREEPORT TRAIN 1 LIQUEFACTION PROJECT

by and between

FLNG LIQUEFACTION, LLC

as Owner

and

ZACHRY INDUSTRIAL, INC. and CB&I INC.
as Contractor

Dated as of the 10th Day of December, 2013

TABLE OF CONTENTS

RECITALS 1

ARTICLE 1 DEFINITIONS 2

ARTICLE 2 RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS 20
2.1 Status of Contractor 20
2.2 Key Personnel, Organization Chart and Contractor Representative 21
2.3 Subcontractors and Sub-subcontractors 21
2.4 Subcontracts and Sub-subcontracts 22
2.5 Contractor Acknowledgements 24

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES 28
3.1 Scope of Work 28
3.2 Specific Obligations 29
3.3 Design and Engineering Work. 31
3.4 Spare Parts 33
3.5 Training Program in General 34
3.6 Environmental Regulations and Environmental Compliance 35
3.7 Contractor's Tools and Equipment 35
3.8 Employment of Personnel 35
3.9 Clean-up 37
3.10 Safety and Security 37
3.11 Emergencies 39
3.12 Approvals, Certificates, Permits and Licenses 39
3.13 Books, Records and Audits. 39
3.14 Tax Accounting 40
3.15 Temporary Utilities, Roads, Facilities and Storage 41
3.16 Subordination of Liens 41
3.17 Hazardous Materials 41
3.18 Quality Assurance 42
3.19 Reports and Meetings 43
3.20 Payment 44
3.21 Commercial Activities 44
3.22 Title to Materials Found 44
3.23 Survey Control Points and Layout 44
3.24 Cooperation with Others 45
3.25 Scheduled and Unscheduled Activities Involving Existing Facility 45
3.26 Responsibility for Property 46
3.27 Explosives 47
3.28 Nondiscrimination 47
3.29 Used or Salvaged Materials 47
3.30 Supervision of Owner's Operation Personnel 47
3.31 Use of Owner Equipment or Facilities 48

3.32 Compliance with Real Property Interests 49

ARTICLE 4 OWNER'S RESPONSIBILITIES 49
4.1 Payment 49
4.2 Permits 49
4.3 Access to the Site 49
4.4 Operation Personnel 49
4.5 Texas Sales and Use Taxes 50
4.6 Hazardous Materials 51
4.7 Legal Description and Survey 51
4.8 Owner Provided Items 51

ARTICLE 5 COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS 57
5.1 Commencement of Work 57
5.2 Limited Notice to Proceed/Notice to Proceed 57
5.3 Train 1 Project Schedule 61
5.4 CPM Schedule 61
5.5 Recovery and Recovery Schedule 65
5.6 Acceleration and Acceleration Schedule 66

ARTICLE 6 CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY 67
6.1 Change Orders Requested by Owner 67
6.2 Change Orders Requested by Contractor 69
6.3 Change Orders Requested by FLIQ2 Under the Train 2 EPC Agreement 71
6.4 Contract Price Adjustment; Contractor Documentation 72
6.5 Change Orders Act as Accord and Satisfaction 72
6.6 Timing Requirements for Notifications and Change Order Requests by Contractor 73
6.7 Adjustment Only Through Change Order. 74
6.8 Force Majeure 75
6.9 Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law 76
6.10 Delay 77
6.11 Contractor Obligation to Mitigate Delay 77
6.12 Separated Contract Price Adjustments in Change Orders 77
6.13 Change Orders Affecting Common Development Work or the Common Development Work Compensation 77
6.14 Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement 78
6.15 Adjustment to Schedule Bonus Date 80

ARTICLE 7 CONTRACT PRICE AND PAYMENTS TO CONTRACTOR 80
7.1 Contract Price 80
7.2 Contract Price Components 82
7.3 Interim Payments 83

7.4 Final Completion and Final Payment for Train 1-Specific Work and Common Development Work 85
7.5 Payments Not Acceptance of Work 85
7.6 Payments Withheld 85
7.7 Interest on Late Payments 86
7.8 Work Breakdown Structure 86
7.9 Payment Error 87
7.10 Currency 87
7.11 Conditions Precedent to Payment 88
7.12 Payments to Subcontractors 88
7.13 Retainage and Retention Letter of Credit 88
7.14 Payments by FLIQ CF 89

ARTICLE 8 TITLE AND RISK OF LOSS 90
8.1 Title 90
8.2 Risk of Loss 90

ARTICLE 9 INSURANCE AND LETTER OF CREDIT 93
9.1 Insurance 93
9.2 Irrevocable Standby Letter of Credit 94
9.3 Retention Letter of Credit 95
9.4 Financial Statements 96

ARTICLE 10 OWNERSHIP OF DOCUMENTATION 96
10.1 Ownership of Work Product 96
10.2 Return/Delivery of Certain Property 98
10.3 Contractor's License in Work Product 98
10.4 Owner Provided Documents 99

ARTICLE 11 COMPLETION MILESTONES 99
11.1 Notice and Requirements for RFSU and RLFC 99
11.2 Notice and Requirements for Substantial Completion 102
11.3 Owner Acceptance of RLFC and Substantial Completion 103
11.4 Minimum Acceptance Criteria as a Condition of Substantial Completion 103
11.5 Punchlist 107
11.6 Notice and Requirements for Final Completion 109
11.7 Partial Occupancy 109
11.8 Operations Activities 110
11.9 LNG Tankers Calling on the Facility 110
11.10 Long-Term Obligations 110

ARTICLE 12 WARRANTY AND CORRECTION OF WORK 111
12.1 Warranty 111
12.2 Correction of Work Prior to Substantial Completion of each Phase 112
12.3 Correction of Work After Substantial Completion of each Phase 113
12.4 Assignability of Warranties 114
12.5 Waiver of Implied Warranties 115

ARTICLE 13 GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES 115
13.1 Guarantee of Timely Completion 115
13.2 Delay Liquidated Damages 115
13.3 Schedule Bonus 115

ARTICLE 14 CONTRACTOR'S REPRESENTATIONS 116
14.1 Corporate Standing 116
14.2 No Violation of Law; Litigation 116
14.3 Licenses 116
14.4 No Breach 116
14.5 Corporate Action 116
14.6 Financial Solvency 117

ARTICLE 15 OWNER'S REPRESENTATIONS 117
15.1 Corporate Standing 117
15.2 No Violation of Law; Litigation 117
15.3 Licenses 117
15.4 No Breach 117
15.5 Corporate Action 117
15.6 Financing and Payment 118

ARTICLE 16 DEFAULT, TERMINATION AND SUSPENSION 118
16.1 Default by Contractor 118
16.2 Termination for Convenience by Owner 120
16.3 Suspension of Work 121
16.4 Suspension by Contractor 122
16.5 Termination by Contractor 122
16.6 Termination Due to Extended Force Majeure 122

ARTICLE 17 INDEMNITIES 122
17.1 General Indemnification 122
17.2 Injuries to Contractor's Employees and Damage to Contractor's Property 123
17.3 Injuries to Owner's Employees and Damage to Owner's Property 124
17.4 Owner's Patent and Copyright Indemnification 124
17.5 Contractor's Patent and Copyright Indemnification 124
17.6 Lien Indemnification 124
17.7 Legal Defense 125
17.8 Enforceability 126

ARTICLE 18 DISPUTE RESOLUTION 127
18.1 Negotiation 127
18.2 Mediation 127
18.3 Litigation 128
18.4 Continuation of Work During Dispute 128

ARTICLE 19 CONFIDENTIALITY....128
19.1 Contractor's Obligations....128
19.2 Owner's Obligations....129
19.3 Definitions....130
19.4 Exceptions....130
19.5 Equitable Relief....130
19.6 Term....130

ARTICLE 20 LIMITATION OF LIABILITY....130
20.1 Contractor Aggregate Liability....130
20.2 Damage to the Existing Facility and Expansion Facility After Substantial Completion....131
20.3 Limitation on Contractor's Liability for Delay Liquidated Damages....132
20.4 Delay Liquidated Damages In General....132
20.5 Consequential Damages....133
20.6 Owner Separate Contracts....134
20.7 Continuing Rights and Obligations....134
20.8 Application of Liability Limitations....134

ARTICLE 21 MISCELLANEOUS PROVISIONS....134
21.1 Entire Agreement....134
21.2 Amendments....135
21.3 Joint Effort....135
21.4 Captions....135
21.5 Notice....135
21.6 Severability....136
21.7 Assignment....136
21.8 No Waiver....137
21.9 Governing Law....137
21.10 Successors and Assigns....137
21.11 Attachments and Schedules....137
21.12 Obligations....137
21.13 Further Assurances....137
21.14 Priority....137
21.15 Restrictions on Public Announcements....138
21.16 Parent Guarantee....138
21.17 Foreign Corrupt Practices Act....138
21.18 Language....138
21.19 Counterparts....138
21.20 Owner's Lender(s)....138
21.21 Joint and Several Liability....139
21.22 Coordination Between this Agreement and Train 2 EPC Agreement....139
21.23 Survival....140

LIST OF ATTACHMENTS AND SCHEDULES

ATTACHMENT A	Scope of Work and Design Basis
SCHEDULE A-1	Scope of Work
SCHEDULE A-2	Design Basis – Pretreatment Facility
SCHEDULE A-3	Design Basis – Liquefaction Facility
ATTACHMENT B	Contractor Deliverables
ATTACHMENT C	Payment Schedule and Work Breakdown Structure Form
SCHEDULE C-1	Payment Milestone Schedule
SCHEDULE C-2	Maximum Cumulative Payment Schedule
SCHEDULE C-3	Form of Work Breakdown Structure
ATTACHMENT D	Form of Change Order
SCHEDULE D-1	Change Order Form
SCHEDULE D-2	Unilateral Change Order Form
SCHEDULE D-3	Contractor's Change Order Request Form
SCHEDULE D-4	Pricing for Change Orders
ATTACHMENT E	Train 1 Project Schedule, Schedule Milestones and Delay Liquidated Damages
ATTACHMENT F	Key Personnel and Contractor's Organization
ATTACHMENT G	Approved Subcontractors and Sub-subcontractors
ATTACHMENT H	Notice to Proceed Forms
SCHEDULE H-1	Form of Limited Notice to Proceed
SCHEDULE H-2	Form of Notice to Proceed
SCHEDULE H-3	LNTP No. 1
ATTACHMENT I	Form of Contractor's Invoices

SCHEDULE I-1	Form of Contractor's Interim Invoice for Train 1-Specific Work
SCHEDULE I-2	Form of Contractor's Interim Invoice for Common Development Work
SCHEDULE I-3	Form of Contractor's Final Invoice for Train 1-Specific Work
SCHEDULE I-4	Form of Contractor's Final Invoice for Common Development Work
ATTACHMENT J	Health, Safety, Security and Environmental Management Plan
ATTACHMENT K	Form of Lien and Claim Waivers
SCHEDULE K-1	Contractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-2	Contractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-3	Subcontractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-4	Subcontractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-5	Contractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-6	Contractor's Conditional Claim Waiver and Release on Final Payment
SCHEDULE K-7	Subcontractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-8	Subcontractor's Conditional Claim Waiver and Release on Final Payment
ATTACHMENT L	Form of RFSU Certificate
ATTACHMENT M	Form of Substantial Completion Certificate
ATTACHMENT N	Form of Final Completion Certificate
ATTACHMENT O	Insurance Requirements

ATTACHMENT P	Contractor Permits
ATTACHMENT Q	Owner Permits
ATTACHMENT R	Form of Irrevocable, Standby Letter of Credit and Retention Letter of Credit
SCHEDULE R-1	Form of Irrevocable, Standby Letter of Credit
SCHEDULE R-2	Form of Retention Letter of Credit
ATTACHMENT S	Performance Tests
ATTACHMENT T	Minimum Acceptance Criteria and other Performance Requirements
ATTACHMENT U	Form of Parent Guarantee
ATTACHMENT V	Pre-Commissioning, Commissioning, Start-Up, Training and Turnover Program
ATTACHMENT W	Capital Spare Parts List
ATTACHMENT X	Reporting Requirements
ATTACHMENT Y	Site
SCHEDULE Y-1	Existing Facility Site and Expansion Facility Site on Quintana Island
SCHEDULE Y-2	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas on Quintana Island
SCHEDULE Y-3	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas at the Pretreatment Facility Location
ATTACHMENT Z	Owner-Provided Items
ATTACHMENT AA	Form of RLFC Certificate
ATTACHMENT BB	Subsurface Documents
ATTACHMENT CC	Interfaces and Tie-Ins with Existing Facility
ATTACHMENT DD	Adjustment for Provisional Sums

ATTACHMENT EE	Owner's Quality Management General Requirements
ATTACHMENT FF	Owner Provided List of Tax Exempt and Taxable Equipment
ATTACHMENT GG	Owner's Texas Direct Pay Exemption Certificate and Texas Sales and Use Tax Exemption Certificate
ATTACHMENT HH	Adjustment for Piles
ATTACHMENT II	Fill for Site
ATTACHMENT JJ	Form of Equipment Sharing Agreement

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 1 LIQUEFACTION PROJECT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 1 LIQUEFACTION PROJECT (this "***Agreement***"), dated as of the 10th Day of December, 2013 (the "***Effective Date***"), is entered into by FLNG Liquefaction, LLC, a Delaware limited liability company ("***Owner***"), and CB&I Inc., a Texas corporation, and Zachry Industrial, Inc., a Delaware corporation, with CB&I and Zachry hereinafter collectively referred to as "***Contractor***", and with each of Owner and Contractor sometimes referred to individually herein as a "***Party***" and collectively as the "***Parties***".

RECITALS

WHEREAS, Owner's affiliate, Freeport LNG Development, L.P. ("***FLNG Development***") owns and operates an existing LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas (as defined in greater detail in Section 1.1, the "***Existing Facility***"); and

WHEREAS, Owner intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that will modify, and be interconnected with, the Existing Facility (as more fully described herein, the "***Train 1 Expansion***"). The engineering, procurement, construction, pre-commissioning, commissioning and testing of the Train 1 Expansion is hereby referred to as the "***Train 1 Project***"; and

WHEREAS, another affiliate of Owner, FLNG Liquefaction 2, LLC ("***FLIQ2***"), intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 1 Expansion (except for the Common Development Work), and will modify, and be interconnected with, the Existing Facility and the Train 1 Expansion as well as share the Common Systems with the Train 1 Expansion and share the Existing Facility Modifications with both the Existing Facility and the Train 1 Expansion (as defined in greater detail in Section 1.1, the "***Train 2 Expansion***"); and

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 Contractor, dated December 10, 2013 (hereinafter, the "***Train 2 EPC Agreement***");

WHEREAS, CB&I and Zachry, 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 1 Project on a fixed price, turnkey basis (which fixed price is separated for tax purposes).

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

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

"***Abandonment of the Train 1 Project***" means, prior to the acceptance by Owner of the Substantial Completion Certificate, Contractor's express refusal to perform substantially all home office activities and field construction operations in a manner that objectively manifests the intent by Contractor of not completing the Work under this Agreement. For the avoidance of doubt, Contractor shall not be alleged to have implicitly, expressly, or constructively abandoned the Train 1 Project or the Work as a result of Owner terminating Contractor pursuant to Section 16.1 for a Default, other than a Default pursuant to Section 16.1A(iii) for an "Abandonment of the Train 1 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, FLIQ2, FLNG Liquefaction 3, LLC, FLIQ1 Holdings, LLC, FLIQ2 Holdings, LLC, FLIQ3 Holdings, LLC and FLNG Development as well as any Affiliate of FLNG Development; *provided further, however*, with respect to Owner, and for purposes of clarity, ConocoPhillips Company shall not be an "Affiliate" of Owner. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

"***Aggregate Provisional Sum***" has the meaning set forth in Section 7.1.

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards

and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality (including the Electric Reliability Council of Texas) 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 or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions of the Train 1 Project, as required under Attachment B.

"***Baseline CPM Schedule***" has the meaning set forth in Section 5.4A.

"***Books and Records***" has the meaning set forth in Section 3.13A.

"***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 United States of America.

"***Btu***" means a British thermal unit.

"***CAD***" has the meaning set forth in Section 3.3E.

"***Capital Spare Parts***" shall mean those spare parts listed in Attachment W for use after Substantial Completion which are to be included in the Work and the Contract Price as further set forth in Section 3.4B.

"***CB&I***" has the meaning set forth in Section 21.21.

"***CB&I Guarantor***" means Chicago Bridge & Iron Company N.V.

"***CenterPoint***" means CenterPoint Energy, or any successor entity thereto.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of

the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1A.

"***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 inventory, revenue, income, profits/losses or cost of finance or withholding Tax) that occurs and takes effect after the Effective Date.

"***Common Contract Price Component***" has the meaning set forth in Section 7.2A.

"***Common Development Work***" means all Work performed under this Agreement to design, engineer, procure, construct, pre-commission, commission and test the Common Systems (including the Expansion Facility Dock and Existing Facility Modifications). The Common Development Work shall include all direct and indirect labor and materials provided to develop the Common Systems, including, permanent materials, bulks and commodities, Subcontractor and Sub-subcontractor supplies and services, construction equipment, supplies, small tools, scaffolding, spare parts, pre-commissioning, commissioning and start-up activities, home office services, project management services, temporary facilities, training, general site services and supplies, temporary utilities, security, and Subcontractor and Sub-subcontractor support, all to the extent necessary for the development of the Common Systems as part of the Expansion Facility. For purposes of clarity, the scope of the Common Development Work under this Agreement shall be the same scope of work defined as "Common Development Work" under the Train 2 EPC Agreement, and Contractor shall be obligated to fully complete such Common Development Work as set forth in this Agreement. While the intent of Owner, Contractor and FLIQ2 is that the Common Development Work under both this Agreement and the Train 2 EPC Agreement is an identical and fully overlapping scope of work, in the event of a conflict or discrepancy between this Agreement and the Train 2 EPC Agreement with respect to such Common Development Work, Owner and FLIQ2 shall jointly resolve such conflict or discrepancy and Owner will direct Contractor accordingly under this Agreement and FLIQ2 will direct Contractor accordingly under the Train 2 EPC Agreement.

"***Common Development Work Compensation***" has the meaning set forth in Section 7.2A.

"***Common Systems***" means those portions of the Work which will be utilized by both the Train 1 Expansion and Train 2 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Expansion Facility Dock and Existing Facility Modifications. The applicable Common Systems will be designed, procured and constructed such that both the Train 1 Expansion and Train 2 Expansion may be operated simultaneously or individually at the design conditions set forth in this Agreement (with respect to the Train 1 Expansion) and the design conditions set forth in the Train 2 EPC Agreement (with respect to the Train 2 Expansion). The Common Systems are listed in Sections 4.1.1 and 4.2.1 of Schedule A-1.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Contract Price***" has the meaning set forth in Section 7.1. For purposes of clarity, the Contract Price shall equal the sum of the Train 1-Specific Contract Price Component and the Common Contract Price Component.

"***Contract Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, its limited or general partners, its members and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, employees, representatives and invitees of each Person specified in clause (i) above. A "Contractor Indemnified Party" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work, except for any limitations specified in such notice.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

"***Contractor's Intellectual Property***" has the meaning set forth in Section 10.1B.

"***Corrective Work***" has the meaning set forth in Section 12.3.

"***CPM Schedule***" means the Baseline CPM Schedule (as it may be updated from time to time in accordance with this Agreement) or Monthly Updated CPM Schedules, as the context requires.

"***Cure Period***" has the meaning set forth in Section 16.1A.1.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1A.

"***Defect***" or "***Defective***" has the meaning set forth in Section 12.1A.

"***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; *provided that*, (i) the Defect Correction Period for that portion of the Common Systems that achieves substantial completion under the Train 2 EPC Agreement (in accordance with Section 11.2A) shall extend until eighteen (18) months from the date of substantial completion established under the Train 2 EPC Agreement (as such period may be extended pursuant to the Train 2 EPC Agreement) and (ii) notwithstanding the foregoing, with respect to the Existing Facility Modifications, the Defect Correction Period

shall be the period commencing upon Handover of the applicable Existing Facility Modifications and ending eighteen (18) months thereafter, as may be extended in accordance with Section 12.3B.

"***Defective MCHE***" means, for purposes of Section 11.4B only, an MCHE that fails to achieve its performance guarantees as fully defined in the equipment purchase agreement for the MCHE between APCI and Contractor. For all other purposes within the Agreement, a Defective MCHE shall mean an MCHE that has a Defect as defined in Section 12.1A.

"***Delay Liquidated Damages***" shall mean any or all of the (a) RLFC Delay Liquidated Damages, (b) Substantial Completion Delay Liquidated Damages, (c) Record As-Built Delivery Requirement Delay Liquidated Damages or (d) MCHE Replacement Delay Liquidated Damages, as the context requires.

"***Design Basis***" means the basis of design and technical limits and parameters of the Expansion Facility as set forth in Schedules A-2 and A-3.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" has the meaning set forth in Section 18.1.

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***Equipment***" means all equipment and materials required for incorporation into the Train 1 Expansion.

"***Equipment Sharing Agreement***" means that certain Equipment Sharing Agreement, to be executed by Owner, FLIQ CF, Contractor, FLIQ2 and other signatories relating to the sharing of items of equipment among Owner, FLIQ CF, FLIQ2 and other signatories, which such Equipment Sharing Agreement shall be substantially in the form attached hereto as Attachment JJ.

"***Existing Facility***" means Owner's Affiliates' (including FLNG Development and its Affiliates) existing (i) LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas, (ii) Stratton Ridge natural gas metering station, (iii) forty-two inch (42") diameter natural gas pipeline connecting the Stratton Ridge natural gas metering station to the terminal on Quintana Island, and (iv) underground natural gas storage cavern located near Stratton Ridge and its related natural gas storage infrastructure and compression facilities.

"***Existing Facility Modifications***" has the meaning set forth in Section 11.2B.

"***Existing Facility Site***" means those areas where the Existing Facility is located as shown in greater detail in Schedule Y-1.

"***Expansion Facility***" means both the Train 1 Expansion and Train 2 Expansion, including all Common Systems.

"***Expansion Facility Dock***" means the LNG loading and unloading dock to be constructed as part of the Expansion Facility, including all marine piling, concrete structures, mooring dolphins, and topside Equipment, as further described in Section 4.12.5 of Schedule A-1.

"***Expansion Facility Dock Price***" means Thirty Four Million One Hundred Seventy Eight Thousand Five Hundred Seventy-Eight U.S. Dollars ($34,178,578), as such value may be adjusted from time to time by Change Orders executed by the Parties in accordance with this Agreement.

"***Expansion Facility Site***" means those areas comprised of the Train 1 Expansion Site, Train 2 Expansion Site and other Expansion Facility Site areas as shown in greater detail in Attachment Y.

"***Facility***" means both the Expansion Facility and the Existing Facility.

"***FEED Agreement***" means the Front End Engineering Design Services Agreement between Freeport LNG Expansion, L.P. and Contractor, dated January 30, 2012.

"***FERC***" means the Federal Energy Regulatory Commission.

"***FERC Order***" means the Order Granting Authorization under Section 3 of the Natural Gas Act, issued by FERC to Owner in connection with the Expansion Facility, as may be amended or modified.

"***Final Completion***" means that all Work (including the Work to complete the Expansion Facility Dock) and all other obligations under the Agreement (except for those obligations that survive the termination or expiration of this Agreement, including obligations for Warranties, correction of Defective Work and those covered, without limitation, by Section 11.10), are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of RLFC and Substantial Completion; (ii) the successful achievement of the Minimum Acceptance Criteria for the Expansion Facility Dock; (iii) the successful achievement of the MCHE Power Performance Guarantee or, if the MCHE Power Performance Guarantee was not achieved but the Total Gas Horsepower (as determined in accordance with Attachments S and T) was equal to or less than 105% of the MCHE Power Performance Guarantee, the MCHE Power Performance Guarantee Liquidated Damages in accordance with Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (iv) the successful achievement of the Gross Power Output Performance Guarantee and Gross Heat Rate Performance Guarantee (as described in Attachments S and T), or in the case that either such Performance Guarantee has not been achieved, the Gross Power Output Performance Liquidated Damages and Gross Heat Rate Performance Liquidated Damages, as applicable, due and owing as set forth in Attachment T have been

paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (v) the completion of all Punchlist items; (vi) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers in the forms of Schedules K-5 and K-6; (vii) delivery by Contractor to Owner of all remaining documentation required to be delivered under this Agreement, including Owner's Confidential Information, test reports, and the documentation required under Attachment B and Attachment EE; (viii) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractor's personnel, supplies, waste, materials, equipment (except Equipment), rubbish, Hazardous Materials, and temporary facilities (other than those personnel, supplies, waste, materials, equipment, rubbish, Hazardous Materials and temporary facilities associated with the Train 2-Specific Work or Common Systems that achieve substantial completion under the Train 2 EPC Agreement); (ix) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers from all Major Subcontractors in the forms in Schedules K-7 and K-8; (x) if requested by Owner, fully executed Final Lien and Claim Waivers from Major Sub-subcontractors in a forms substantially similar to the forms in Schedule K-7 and K-8; and (xi) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 11.6, which Owner has accepted by signing such certificate.

"***Final Completion Certificate***" has the meaning set forth in Section 11.6.

"***Final Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.4, which shall be in the form of Attachment K, Schedules K-5, K-6, K-7 and K-8.

"***First RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Fixed Sum Prices***" has the meaning set forth in Attachment DD.

"***FLIQ CF***" means FLIQ Common Facilities, LLC.

"***FLIQ2***" has the meaning set forth in the Recitals.

"***FLNG Development***" has the meaning set forth in the Recitals.

"***Force Majeure***" means catastrophic storms (including ice storms) or flooding, lightning, tornadoes, hurricanes, named tropical storms, earthquakes and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, was not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship, (ii) changes in market conditions, (iii) late delivery or failure of

materials, equipment (including Equipment) or supplies unless due to a Force Majeure event, (iv) strikes, or other similar labor actions of Contractor or its Subcontractors or Sub-subcontractors, except Subcontractors (or their associated Sub-subcontractors) providing the main cryogenic heat exchanger, refrigeration compressor packages, major inline cryogenic valves or non-U.S. liquefaction air coolers, *provided that* with respect to the foregoing excepted Subcontractors and Sub-subcontractors, Contractor's relief for such strikes or other similar labor actions shall be limited to an extension to the Guaranteed Substantial Completion Date and the Required Final Completion Date pursuant to Section 6.8A.1 (and does not include adjustments to the Contract Price pursuant to Section 6.8A.2(b)), (v) unavailability of laborers, Subcontractors or Sub-subcontractors, or (vi) climatic conditions (including rain, snow, wind, temperature and other weather conditions), tides, and seasons, regardless of the magnitude, severity, duration or frequency of such climatic conditions, tides or seasons, *provided that* such climatic conditions, tides and seasons do not include catastrophic storms (including ice storms) or floods, lightning, tornadoes, hurricanes, named tropical storms or earthquakes meeting the requirements of a Force Majeure, or (vii) nonperformance or delay by Contractor or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay is otherwise caused by a Force Majeure.

"***Fourth RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards employed by the liquefied natural gas engineering and construction industries with respect to: (i) the engineering, procurement, construction, pre-commissioning, commissioning, testing and start-up of natural gas treatment and liquefaction facilities in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A. For clarification, GECP does not necessarily require compliance with the World Bank's noise guidelines, but Contractor shall nevertheless comply with noise levels and guidelines required by Permits, Applicable Law and Applicable Codes and Standards.

"***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.

"***Gross Negligence or Willful Misconduct***" shall have the meanings as determined under the governing law of this Agreement as set forth in Section 21.9.

"***Guaranteed Record As-Built Delivery Date***" has the meaning set forth in Section 3.3F.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3A.

"***Guarantor***" means CB&I Guarantor and Zachry Guarantor.

"***Handover***" has the meaning set forth in Section 11.2B. For purposes of clarity, the phrase "***Handed Over***" shall have the same meaning as Handover.

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***IFC***" has the meaning set forth in Section 5.4A.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Intellectual Property Rights***" means patents, utility models, registered designs and models, trademarks, trade secrets, service marks, copyrights, applications for any of the foregoing and rights to apply for any of the foregoing, proprietary information and know-how, whether patentable or not, and any similar right.

"***Interim Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.3D, which shall be in the form of Attachment K, Schedules K-1, K-2, K-3 and K-4.

"***Investment Grade***" has the meaning set forth in Section 9.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.3 for a progress payment and pursuant to Section 7.4 for final payment, which invoice shall be in the form of Schedule I-1 or I-2, as applicable, for progress payments and Schedule I-3 or I-4, as applicable, for final payment.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2A.

"***Labor and Skills Price***" has the meaning set forth in Section 7.1C.

"***Lender***" means any entity or entities providing temporary or permanent debt financing for the Expansion Facility.

"***Letter of Credit***" has the meaning set forth in Section 9.2.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 3.3B.

"***LNG***" means liquefied Natural Gas.

"***LNG Evacuation Requirement***" has the meaning set forth in Section 4.8D.

"***LNG Production Rate***" means the average hourly LNG rundown rate over the 72-hour LNG Production Rate Performance Test measured at the outlet of the LNG liquefaction unit (at the final flow measuring device downstream of the MCHE prior to entering the common rundown header). The LNG Production Rate shall be established in a continuous 72-hour LNG Production Rate Performance Test without any process trips.

"***LNG Production Rate MAC***" means the Train 1 Expansion is capable of achieving an average (continuous, without any process trips) hourly LNG rundown rate equivalent to 566.8 metric tonnes per hour, when processing natural gas at the condition and of the composition defined in the design case (average gas) at an ambient Site temperature of 71 degrees Fahrenheit during the 72-hour LNG Production Rate Performance Test.

"***LNG Production Rate Performance Test***" has the meaning set forth in Attachment S.

"***LNG Tanker***" means any ocean-going vessel used by Owner, a customer of the Facility or their designee for the transportation of LNG.

"***LNTP No. 1***" has the meaning set forth in Section 5.2A.1.

"***LNTP No. 2***" has the meaning set forth in Section 5.2A.2.

"***LNTP No. 3***" has the meaning set forth in Section 5.2A.3.

"***Major Subcontract***" means any Subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Subcontractor for Work listed in Section 3 of Attachment G.

"***Major Subcontractor***" means the Subcontractors listed as such in Attachment G and, in addition, any Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means any Sub-subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this

Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Sub-subcontractor for Work listed in Section 3 of Attachment G.

"***Major Sub-subcontractor***" means the Sub-subcontractors listed as such in Attachment G and, in addition, any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Maximum Cumulative Payment Schedule***" has the meaning set forth in Section 7.3F.

"***MCHE***" means the main cryogenic heat exchanger for the Train 1 Expansion.

"***MCHE Power Performance Guarantee***" has the meaning set forth in Attachment T.

"***MCHE Power Performance Guarantee Liquidated Damages***" has the meaning set forth in Attachment T.

"***MCHE Replacement Delay Liquidated Damages***" has the meaning set forth in Section 11.4B.2.

"***MCHE Replacement Scenario***" has the meaning set forth in Section 11.4B.

"***MCHE Replacement Scenario Verification Notice***" has the meaning set forth in Section 11.4B.1.

"***Minimum Acceptance Criteria***" or "***MAC***" means the LNG Production Rate MAC, the Ship Loading Rate MAC for the Existing Facility's LNG loading dock and the Ship Loading Rate MAC for the Expansion Facility Dock, all as further specified in Attachment T.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 11.4A.

"***Minimum Acceptance Criteria Testing Conditions***" are the Performance Test conditions set forth in Attachment S.

"***MMBtu***" means one million (1,000,000) Btus.

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring, or an action taken, once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.19A.4.

"***Monthly Updated CPM Schedule***" has the meaning set forth in Section 5.4B.

"***Notice to Proceed***" or "***NTP***" has the meaning set forth in Section 3.3B.

"***NTP Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) Owner, its parent, its limited or general partners, its members, Lenders, ConocoPhillips Company, any other Persons with an ownership interest in the Expansion Facility or the Existing Facility and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Mark Mallett as the Owner Representative. Notification of a change in Owner Representative shall be provided in advance, in writing, to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.16.

"***Party***" or "***Parties***" means Owner and/or Contractor and their successors and permitted assigns.

"***Payment Milestone***" means a designated portion of the Work as shown the Payment Milestone Schedule.

"***Payment Milestone Schedule***" means the schedule set forth in Schedule C-1, which sets out the payments to be paid based on completion of the Payment Milestones.

"***Performance Guarantee***" means the MCHE Power Performance Guarantee, Gross Power Output Performance Guarantee and the Gross Heat Rate Performance Guarantee, as further set forth in Attachment T.

"***Performance Liquidated Damages***" shall mean the Gross Power Output Performance Liquidated Damages, the Gross Heat Rate Performance Liquidated Damages and the MCHE Power Performance Liquidated Damages, as further set forth in Attachment T.

"***Performance Tests***" means those tests performed to determine whether the Minimum Acceptance Criteria and Performance Guarantees have been achieved for the Train 1 Expansion, which tests shall be set forth in Attachment S and, to the extent not specified therein, as developed in accordance with Section 11.2.

"***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.

"***Person***" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.

"***Piles***" has the meaning set forth in Section 2.5B.2(i).

"***Provisional Substantial Completion***" has the meaning set forth in Section 11.4B.6.

"***Provisional Sum***" has the meaning set forth in Attachment DD.

"***Provisional Sum Scope Items***" has the meaning set forth in Attachment DD.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Facility, as more fully described in Section 11.5 of this Agreement.

"***Qualified Force Majeure Event***" has the meaning set forth in Section 6.8A.2(b).

"***Quality Management System***" means the system, including quality plans and procedures, used by Contractor to direct and control its organization with regard to quality, the requirements of which are set forth in Section 3.18 and Attachment EE.

"***Ready for Startup***" or "***RFSU***" means that all of the following have occurred with respect to the applicable system or subsystem of the Equipment for the Train 1 Project: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation, and pre-commissioning and commissioning checks and tests of all Equipment (including all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) for such applicable system or subsystem of the Equipment to ensure that all such Equipment was fabricated, assembled, erected and installed and is capable of being properly operated, all within the requirements and specifications contained in this Agreement (and without damage to the Work, the Facility or any other property and without injury to any Person), all as set forth in greater detail in Attachment A and the RFSU checklists agreed by Owner and Contractor in accordance with Section 11.1A; (ii) Contractor and Owner have agreed upon an initial Punchlist of items as set forth in Section 11.5A and those Punchlist items necessary for achieving RFSU have been successfully completed by Contractor (including all A and B classified Punchlist items); (iii) Contractor has delivered to Owner an RFSU Certificate for the applicable system or subsystem in the form of Attachment L; (iv) Contractor has provided Owner with all documentation for RFSU, including the System Compilation Manuals, as required under Attachment B; (v) the requirements related to RFSU set forth in Attachment V (including the prestart-up safety review and walk-down between Owner and Contractor) have been achieved and the Owner approvals related thereto have been given; and (vi) the quality requirements of Attachment EE related to RFSU have been successfully completed and related documentation provided to Owner.

"***RFSU of the Train 1 Expansion***" shall mean that RFSU has been achieved for all systems and subsystems of the Train 1 Expansion except those systems or subsystems of Equipment within the Expansion Facility Dock.

"***Ready To Load First Cargo***" or "***RLFC***" means that all of the following have occurred with respect to the Train 1 Expansion (except for the Work on the Expansion Facility Dock, which the Parties agree is not necessary to meet the following conditions in order for the Train 1 Expansion to achieve RLFC): (i) the successful achievement of Ready For Start Up of all systems and subsystems of all Equipment; (ii) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment and all systems and subsystems of all Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up, to ensure that the Work (including all Common Systems necessary to support the Train 1 Expansion) and each component thereof was correctly fabricated, assembled, erected and installed, has been correctly integrated into the Existing Facility, and is capable of being operated within the requirements contained in this Agreement and without damage to the Work, the Facility, any other property or the environment and without injury to any Person, as set forth in greater detail in Attachment A; (iii) Contractor has successfully completed the process of drying out and purging all systems and subsystems; (iv) the Train 1 Expansion meets the additional requirements for RLFC set forth in Attachment A and Attachment V; (v) the Train 1 Expansion has liquefied natural gas into at least 150,000 m^3 of LNG meeting all specifications and requirements of this Agreement (other than the Minimum Acceptance Criteria and Performance Guarantees) and successfully transferred and stored such LNG into the Existing Facility's LNG storage tank; (vi) all LNG loading and unloading lines (and Equipment and systems related thereto) necessary for transfer of LNG from the Existing Facility's LNG storage tank to the Existing Facility's dock, have been cooled down and are ready for transfer of LNG to an LNG Tanker; (vii) Contractor has completed all Punchlist items necessary for achievement of RLFC pursuant to Section 11.5B and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5B; and (viii) Contractor has delivered to Owner an RLFC Certificate in the form of Attachment AA and Owner has accepted such certificate by signing such certificate.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Delivery Requirement***" has the meaning set forth in Section 3.3F.

"***Record As-Built Delivery Requirement Delay Liquidated Damages***" has the meaning set forth in Section 13.2B.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications of the Train 1 Project showing the "as-built" conditions of the Train 1 Expansion, as required under Attachment B.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means that certain information provided by Owner, which is expressly identified in Attachment Z as being Rely Upon Information, that Contractor shall be entitled to rely upon in the performance of the Work under this Agreement.

"***Replacement Timeline***" has the meaning set forth in Section 11.4B.2.

"***Required Final Completion Date***" has the meaning set forth in Section 5.3B.

"***Retainage***" has the meaning set forth in Section 7.13A.

"***Retention Letter of Credit***" has the meaning set forth in Section 9.3.

"***RFSU Certificate***" has the meaning set forth in Section 11.1A.

"***RLFC Certificate***" is the Contractor certification for achievement of RLFC in the form set forth in Attachment AA.

"***RLFC Delay Liquidated Damages***" has the meaning set forth in Section 11.1D.1.

"***Schedule Adjustment Items***" has the meaning set forth in Attachment DD.

"***Schedule Bonus Date***" means 1,461 Days following Contractor's receipt of LNTP No. 3. The Schedule Bonus Date shall only be adjusted by Change Order as provided in this Agreement, including as allowed by Attachment DD.

"***Schedule Milestones***" means those milestones for completion of certain portions of the Work as further set forth in Attachment E.

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Attachment A.

"***Second RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Senior Supervisory Personnel***" means the following positions of Contractor's project management team: (i) Project Executive, (ii) Project Manager, (iii) Engineering Manager, (iv) Site Construction Director, (v) Deputy Site Construction Director, (vi) Commissioning & Start-up Manager, (vii) Health, Safety and Security Manager, (viii) Procurement Manager, (ix) Project Controls Manager and (x) QA/QC Manager.

"***Ship Loading Performance Test***" has the meaning set forth in Attachment S.

"***Ship Loading Rate MAC***" has the meaning set forth in Attachment S.

"***Site***" means the Expansion Facility Site and the Existing Facility Site together, as further described in Attachment Y.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct contract with Contractor to manufacture or supply Equipment which is a portion of the Work, to lease equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or materials.

"***Substantial Completion***" means that all of the following have occurred with respect to the Train 1 Expansion (except the Work for the Expansion Facility Dock, which the Parties agree is not necessary to meet the following conditions in order for the Train 1 Expansion to achieve Substantial Completion): (i) Ready For Start Up has been achieved for all systems and subsystems of Equipment for the Train 1 Expansion; (ii) RLFC has been achieved and the RLFC Certificate has been delivered by Contractor to Owner and Owner has accepted such certificate by signing such certificate; (iii) all Minimum Acceptance Criteria have been achieved (except the Minimum Acceptance Criteria for the Expansion Facility Dock); (iv) Contractor has completed all items on the Punchlist that are required to achieve Substantial Completion, and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5C; (v) any RLFC Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (vi) the Work has been completed (including training, manuals and the delivery of all documentation required for operation), except for Work on the Punchlist; (vii) Contractor has delivered to Owner the Substantial Completion Certificate in the form of Attachment M and as required under Section 11.2 and Owner has accepted such certificate by signing such certificate; (viii) the Train 1 Expansion has been integrated into the Existing Facility and is available for full commercial operation, including loading of LNG Tankers from the Existing Facility's LNG storage tanks, in accordance with the requirements of this Agreement; (ix) Contractor has obtained all Permits for the Train 1 Expansion required by Section 3.12; (x) Contractor has delivered to Owner fully executed Interim Lien and Claim Waivers in the forms of Schedules K-1 and K-2, fully executed Interim Lien and Claim Waivers from all Major Subcontractors in the forms of Schedules K-3 and K-4 and, if requested by Owner, fully executed Interim Lien and Claim Waivers from all Major Sub-subcontractors substantially in the forms of Schedules K-3 and K-4, covering all Work up to the date of Substantial Completion; (xi) Contractor has assigned to or provided Owner with all Warranties related to the Work to the extent Contractor is obligated to do so pursuant to this Agreement; (xii) Contractor has delivered all documentation to Owner which it is required under the Agreement to provide at or prior to Substantial Completion pursuant to Attachment B; and (xiii) the quality requirements of Attachment EE related to Substantial Completion have been successfully completed and related documentation provided to Owner.

"***Substantial Completion Certificate***" is the Contractor certification for achievement of Substantial Completion in the form set forth in Attachment M.

"***Substantial Completion Delay Liquidated Damages***" has the meaning set forth in Section 13.2A.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Equipment which comprises a portion of the Work, to lease equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor, materials or equipment (including Equipment).

"***Tax Exempt Equipment***" has the meaning set forth in Section 4.5A.2.

"***Tax Exempt Equipment Price***" has the meaning set forth in Section 7.1A.

"***Taxable Equipment***" has the meaning set forth in Section 7.1B.

"***Taxable Equipment Price***" has the meaning set forth in Section 7.1B.

"***Taxes***" means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes (excluding any Texas state and applicable local sales and use taxes on Tax Exempt Equipment and Taxable Equipment), gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium**,** franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

"***Third Party Proprietary Work Product***" has the meaning set forth in Section 10.1B.

"***Third RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Train 1 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under this Agreement in order to meet the Minimum Acceptance Criteria and Performance Guarantees and includes a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems (including the Expansion Facility Dock and the Existing Facility Modifications) and other systems, all as further set forth in this Agreement (particularly Attachment A). For purposes of clarity, the Train 1 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 1 Expansion Site***" means those areas where the Train 1 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 1 Project***" has the meaning set forth in the Recitals.

"***Train 1 Project Schedule***" means the schedule of dates in which Contractor is required to achieve certain stages of completion of the Train 1 Expansion, including the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Guaranteed Record As-Built Delivery Date and the Schedule Milestones, as more particularly described in Sections 3.3F and 5.3 and Attachment E.

"***Train 1-Specific Work***" means that portion of the Work that directly benefits, or is necessary for, the Train 1 Expansion only and does not provide any benefit, and is not otherwise necessary, for the Train 2 Expansion. For clarity, the Train 1-Specific Work is all Work performed under this Agreement that is not Common Development Work.

"***Train 1-Specific Contract Price Component***" has the meaning set forth in Section 7.2B.

"***Train 2 Expansion Site***" means those areas where the Train 2 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 2 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 2 Expansion***" means the facilities, and all appurtenances related thereto, to be designed, procured and constructed under the Train 2 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems necessary to operate the Expansion Facility (including the Expansion Facility Dock and the Existing Facility Modifications) and all other systems, all as further set forth in the Train 2 EPC Agreement. For purposes of clarity, the Train 2 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 2-Specific Work***" means work performed under the Train 2 EPC Agreement by or on behalf of Contractor that is not also part of the Work performed under this Agreement.

"***Unforeseen Subsurface Condition***" means any unforeseen (i) caverns or seismic faults, (ii) material subsurface obstructions, whether manmade or natural, or (iii) subsurface fossils, antiquities or other archeological finds, which, in the case of any of the above, were encountered by Contractor in the performance of the Work and (a) were not identified in any soils information or any other documents provided to Contractor by Owner, (b) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections, investigations or work performed by Contractor or any of its Subcontractors or Sub-subcontractors prior to the Effective Date and (c) with respect to (i) and (ii) only, are materially different from those that are reasonably expected to be encountered due to the nature of the Site.

"***Updated Contract Price and Train 1 Project Schedule Proposal***" has the meaning set forth in Section 5.2C.3.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Value of Foreign Currency***" has the meaning set forth in Section 7.10B.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 12.1A.

"***Weekly Progress Report***" has the meaning set forth in Section 3.19A.3.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, procurement, engineering, design, fabrication, erection, installation, manufacture, delivery, transportation, storage, construction, workmanship, labor, pre-commissioning, commissioning, inspection, training, Performance Tests, other tests, start-up and any other services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1A and any Corrective Work. Without limiting the foregoing, the Work is comprised of the Train 1-Specific Work and the Common Development Work.

"***Work Breakdown Structure***" has the meaning set forth in Section 7.8.

"***Work Product***" has the meaning set forth in Section 10.1A.

"***30 Day Look-ahead Schedule***" has the meaning set forth in Section 5.4D.

"***Zachry***" has the meaning set forth in Section 21.21.

"***Zachry Guarantor***" means Zachry Holdings, Inc.

1.2 The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement.

ARTICLE 2
RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 **Status of Contractor**. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an

independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative**.

A. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization who will be assigned to the Work. For clarity, the Parties agree and acknowledge that the Key Personnel shall include the Senior Supervisory Personnel in addition to those personnel identified in Attachment F. Owner and Contractor acknowledge and agree the continuity of Key Personnel on this Train 1 Project is a material requirement of this Agreement and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work. Key Personnel shall be devoted full-time to the Work for the applicable period of time specified in Attachment F (*provided that*, Owner acknowledges that a Key Person performing functions related to the Train 1 Project and Common Development Work may also be performing work under a similar role under the Train 2 EPC Agreement), and Key Personnel shall not be removed or reassigned without Owner's prior written approval. All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and the resumes of professional education and experience for a minimum of two (2) candidates of suitable qualifications and experience. Should Owner approve of the replacement of a Key Person, Contractor shall allow for an overlap of two (2) weeks during which both the Key Person to be replaced and the Owner-approved new Key Person shall work together full time. The additional cost of any replacement of such Key Personnel and overlap time shall be entirely at Contractor's expense. Owner has the right, but not the obligation, to require Contractor to remove or cause to be removed a Key Person who is not, in Owner's reasonable judgment, using GECP in the performance of the portion of the Work assigned to such Key Person. Unless the Parties otherwise agree in writing, the Persons identified as Key Persons under this Agreement that are dedicated to the management of Common Development Work shall also be Key Persons under the Train 2 EPC Agreement dedicated to the same Common Development Work.

B. ***Contractor Representative***. Contractor designates Chet Lloyd as the Contractor Representative. The Contractor Representative is a Key Person. The Contractor Representative under this Agreement and the Train 2 EPC Agreement shall be the same Person unless otherwise agreed by Owner in writing.

2.3 **Subcontractors and Sub-subcontractors**. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. Except as otherwise set forth in this Agreement, the provisions of Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the provisions of this Agreement. The provisions of any Subcontract or Sub-subcontract shall not relieve Contractor

of any obligations to perform the Work or of its responsibility for each Subcontractor and Sub-subcontractor. NO SUBCONTRACTOR OR SUB-SUBCONTRACTOR IS INTENDED TO BE OR SHALL BE DEEMED A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly used by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor in the performance of the Work. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner or Lender to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel that are performing Work at the Site are to be instructed by Contractor in the terms and requirements of Owner-approved safety and environmental protection policies and procedures for Work at the Site and shall be expected to comply with such policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Contract Price or Train 1 Project Schedule as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall (i) create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or (ii) obligate Owner to pay or cause the payment of any amounts to any Subcontractor or Sub-subcontractor. For purposes of sales and use taxes for the State of Texas, all Subcontracts and Sub-subcontracts will be separated contracts pursuant to Tex. Tax Code § 151.056(b) and 34 Tex. Admin. Code Rule § 3.291(a)(13). In addition, all Subcontract and Sub-subcontract documentation (including scope of work, cost and schedule-related information) shall be capable of being segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

2.4 **Subcontracts and Sub-subcontracts**.

A. ***Approved List***. Part I of Attachment G sets forth a list of Subcontractors and Sub-subcontractors that Contractor and Owner have agreed are approved Subcontractors and Sub-subcontractors for the performance of that portion of the Work specified in Part I of Attachment G. As further set forth in Attachment G, a Subcontractor or Sub-subcontractor that is listed in Part I shall be utilized for the applicable portion of the Work unless Owner otherwise agrees in writing. Part II of Attachment G sets forth portions of the Work whose Subcontractors and Sub-subcontractors may not otherwise meet the value thresholds to be Major Subcontractors or Major Sub-subcontractors but that the Parties nevertheless agree that such Subcontractors and Sub-subcontractors are Major Subcontractors and Major Sub-subcontractors for purposes of performing such Work scopes. Approval by Owner of any Subcontractors or Sub-subcontractors does not relieve Contractor of any responsibilities under this Agreement.

B. ***Additional Proposed Major Subcontractors and Major Sub-subcontractors***. In the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor not listed on Attachment G that would qualify as a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished

to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids (with pricing redacted) of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fourteen (14) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor not listed on Attachment G. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor not listed on Attachment G for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4B expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fourteen (14) Days shall be deemed to be a rejection of such Major Subcontractor or Major Sub-subcontractor.

C. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Sections 2.4A or 2.4B, Contractor shall, prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing.

D. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts (which price may be redacted from such copies) within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts (which price may be redacted from such copies). Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement or approval of or acquiescence in a breach hereunder.

E. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors used in the performance of the Work, Contractor shall:

1. Include in each Major Subcontract and each Major Sub-subcontract a provision that each such Major Subcontract and Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2. Use reasonable commercial efforts to include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner

under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract; *provided, however*, as a minimum (and without relieving Contractor of its responsibility for each Major Subcontractor and Major Sub-subcontractor), Contractor must include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to substantially comply with and perform for the benefit of Owner the following requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract:

(i) For all Major Subcontractors and Major Sub-subcontractors: Article 10 and Article 19; Sections 2.5C, 3.3, 3.8, 3.13, 3.16, 3.18, 8.1, 16.2, 16.3, 17.1B, 21.15, 21.17 and 21.18; for Interim Lien and Claim Waivers in Section 7.3D and Final Lien and Claim Waivers in Section 7.4 (except Interim and Final Lien and Claim Waivers are not required from Sub-subcontractors who are Equipment suppliers or manufacturers that do not perform Work at the Site); and in substance the same as Section 2.3, including that there is no contractual relationship between Owner and any Major Subcontractor or Major Sub-subcontractor and that Owner has no obligation to pay or cause to pay the payment to any Major Subcontractor or Major Sub-subcontractor.

(ii) For all Major Subcontractors and Major Sub-subcontractors performing Work at the Site: Article 17 (except for Section 17.1B) and Sections 3.6, 3.7, 3.10, 3.17, 3.24, 3.25, 3.27, 9.1, and Attachment O, in addition to the requirements and obligations set forth in Section 2.4E.2(i).

F. ***Owner's Right to Terminate***. Owner shall be entitled to require Contractor to immediately terminate any Subcontract or Sub-subcontract if any Subcontractor or Sub-subcontractor (as applicable) fails to comply in any material respect with the policies and procedures set forth in Attachment J, persists in any conduct which is prejudicial to safety, health or the protection of the environment, or fails to perform the Work in accordance with the safety and health rules and standards of Applicable Law. Contractor agrees that it shall have no right, and hereby waives any such right, to claim any increase to the Contract Price or an adjustment to the Train 1 Project Schedule arising out of or due to any such termination.

2.5 **Contractor Acknowledgements**.

A. ***The Agreement***. Prior to the execution of this Agreement, Contractor performed engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work and Design Basis listed in Attachment A, which was performed pursuant to the FEED Agreement. Owner has relied upon

Contractor's expertise in developing and providing such information. Except with respect to Rely Upon Information identified in Attachment Z, Contractor hereby warrants and represents that such information and the attached Scope of Work and the Design Basis in Attachment A are accurate, adequate and complete for Contractor to engineer, procure, construct, pre-commission, commission, start-up and test a fully operational natural gas treatment, liquefaction, storage and terminal facility for the Contract Price, within the required times set forth in the Train 1 Project Schedule, and in accordance with all requirements of this Agreement, including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees, and that with respect to any information (if any) not so developed or provided by Contractor which is contained in or referenced in Attachment A, Contractor has examined all such information and has determined that it is accurate, adequate and complete. Accordingly, with the exception of Rely Upon Information set forth in Attachment Z, Contractor hereby agrees that it shall have no right to claim or seek an increase in the Contract Price or an adjustment to the Train 1 Project Schedule with respect to any incomplete, inaccurate or inadequate information or requirements that may be contained or referenced in Attachment A, and hereby waives and releases Owner from and against such claims. Owner makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any such information that is contained or referenced in Attachment A.

B. ***Conditions of the Site***.

1. In addition to Section 2.5A, Contractor further agrees and acknowledges that it has made all investigations and inspections that it deems necessary to perform the Work in accordance with the Train 1 Project Schedule, has conducted a review of all Site leases and easements that have been provided to Contractor by Owner, and is familiar with the climate, terrain and other difficulties that it may encounter in performing the Work in accordance with the Train 1 Project Schedule. Contractor has the experience, resources, qualifications and capabilities to perform the Work in accordance with the Train 1 Project Schedule. Except as provided for in Sections 2.5B.2, 2.5B.3 and 6.8A, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Contract Price or the Train 1 Project Schedule in respect of, any failure to timely perform the Work in accordance with the Train 1 Project Schedule as a result of any conditions at the Site or at any other location where the Work is performed, including: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions; (ii) climatic conditions, tides, and seasons (excluding Force Majeure events); (iii) availability of laborers, Subcontractors, Sub-subcontractors, equipment or any other items or supplies; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of equipment under the control of or provided by Contractor or its Subcontractors or Sub-subcontractors.

2. Contractor assumes all risks related to, and waives any right to claim an adjustment for, any and all subsurface conditions of whatever nature or condition, except as expressly provided in this Section 2.5B.2:

(i) *Piles.* The Contract Price and Train 1 Project Schedule are based on 20,192 total piles, having the composition, size and length shown in Section 1 of Attachment HH, supporting all portions of the Train 1 Expansion ("***Piles***"). In accordance with Section 2 of Attachment HH, Contractor shall conduct pile tests on an area by area basis to confirm the number, size, length and type of the Piles in accordance with Section 2 of Attachment HH. Based on the pile test report for an area, if the length or number of Piles in such area is different than that stated in this Section 2.5B.2(i) and Section 1 of Attachment HH, then a Change Order shall be executed adjusting the Contract Price and Train 1 Project Schedule as follows:

(a) If the Pile test report in an area shows that a change in length, size, type or number of Piles is necessary to achieve the load bearing capacity noted in Section 1 of Attachment HH, the Contract Price shall be respectively increased or decreased by Change Order as provided in Section 3 of Attachment HH. This adjustment process shall be performed on an area-by-area basis as further set forth in Attachment HH;

(b) After conducting all of the Pile tests for the Site, if the total number of Piles for the Train 1 Expansion is either (i) ten percent (10%) or more greater than 20,192 Piles or (ii) ten percent (10%) or more less than 20,192 Piles, as a result of the cumulative findings of the Pile test reports described in clause (a) above, the Train 1 Project Schedule shall be evaluated and extended if and to the extent permitted under Section 6.9 (in the case of clause (i)) or decreased (in the case of clause (ii)); and

(c) Except as provided in clauses (a) and (b) above, Contractor is not entitled to any other adjustments to the Contract Price, Train 1 Project Schedule or any other Changed Criteria arising out of or relating to the Piles.

(ii) *Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.*

(a) *Identified Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* Prior to the Effective Date, Contractor received from Owner or developed under the FEED Agreement documentation showing the location of any subsurface utilities, subsurface obstructions, caverns, seismic faults and subsurface archeological finds, as described in more detail in Attachment BB. After the Effective Date but prior to performance of construction of any Work near any such identified subsurface utilities, obstructions, caverns, seismic faults or archeological finds, Contractor shall, exercising GECP, verify all locations of such

identified subsurface utilities, obstructions, caverns, seismic faults and archeological finds, and Contractor shall be entitled to a Change Order adjusting the Contract Price and the Train 1 Project Schedule for any locations of Unforeseen Subsurface Conditions that are materially different than the information described in such documents and adversely affect Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, *provided that*, Contractor complies with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9. After the commencement of construction, Contractor waives all risks and waives any right to claim an adjustment in the Contract Price or Train 1 Project Schedule with respect to any additional costs or delay incurred by Contractor or any Subcontractor or Sub-subcontractor during the construction of the Train 1 Expansion in connection with any location of any subsurface utility, obstruction or archeological find inaccurately shown on such documents.

(b) *Unknown Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* If Contractor encounters an Unforeseen Subsurface Condition that adversely affects Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, Contractor shall be entitled to a Change Order adjusting the Contract Price and Train 1 Project Schedule, *provided that* Contractor complies with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses all reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9.

3. In accordance with this Agreement, Contractor is required to raise and/or stabilize the Site in accordance with Schedule A-1 using appropriate and adequate materials meeting the requirements of this Agreement and GECP. The Contract Price is based on the fill requirements specified in Section 1 of Attachment II. No later than forty-five (45) Days after completion of soil stabilization and Site raising by Contractor, Contractor shall notify Owner in writing whether any adjustment to the fill material requirements specified in Section 1 of Attachment II are necessary based upon the process set forth in Attachment II and the actual amount of fill materials and soil

stabilization materials utilized to raise and stabilize the Site. Such notification shall include a proposed Change Order and all information supporting such proposed Change Order, including the soil test reports of the stabilized soil and as-built cut and fill drawings for the Site. Any adjustments in the Contract Price shall be determined in accordance with Section 2 of Attachment II. Except for any adjustment in the Contract Price as provided in Attachment II, Contractor is not entitled to any other adjustments to the Contract Price, Train 1 Project Schedule or any other Changed Criteria arising out of or relating to any fill requirements or soil stabilization requirements for the Train 1 Project.

C. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards and represents that it can perform the Work at the Contract Price and within the Train 1 Project Schedule in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, (i) Contractor shall be entitled to a Change Order for Changes in Law (including Applicable Codes and Standards incorporated into Applicable Law) to the extent allowed under Section 6.2A.8, and (ii) the Parties shall follow the procedure in Section 2.5C.1 with respect to changes that occur after the Effective Date in Applicable Codes and Standards that are not incorporated into Applicable Law. Except for any Changes in Law for which Contractor is entitled to a Change Order under Section 6.2A.8, Contractor hereby waives any right to make any claim for adjustment of the Contract Price or the Train 1 Project Schedule in relation to any Changes in Law or change to any Applicable Codes and Standards.

1. If a change occurs in any Applicable Code and Standard after the Effective Date and such Applicable Code and Standard is not incorporated into any Applicable Law, Contractor shall give Owner written notice of such change in accordance with the requirements of Section 6.6, which such notice shall include a reasonably detailed description of the impact of the change (if any) on the Train 1 Project or any Changed Criteria. Within ten (10) Days after Owner's receipt of such notice, the Parties shall meet to discuss the implications (if any) of such change in Applicable Code and Standard and shall agree upon an appropriate course of action.

ARTICLE 3
CONTRACTOR'S RESPONSIBILITIES

3.1 **Scope of Work**.

A. ***Generally***. Subject to Section 3.1B, the Work shall be performed on a turnkey basis and shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 1 Expansion, all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, workmanship,

inspection, manufacture, fabrication, installation, design, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 1 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees. Contractor shall be required to integrate and use Owner's operations and maintenance personnel (which are provided by Owner pursuant to Section 4.4) in Contractor's pre-commissioning, commissioning, testing and start-up efforts. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, with the explicit understanding that the Expansion Facility will operate as an LNG liquefaction, storage and export terminal facility meeting all requirements and specifications of this Agreement, and that the Existing Facility will continue to operate as an LNG receiving, storage and regasification facility. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required and necessary to complete the Train 1 Expansion in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

B. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits that Owner has agreed to provide under Section 4.2; (ii) those requirements set forth under Sections 4.3, 4.4, 4.5 and 4.8; (iii) legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point pursuant to Section 4.7; and (iv) LNG Tankers for start-up, commissioning and Performance Tests in accordance with Sections 11.1B and 11.1C.

3.2 **Specific Obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

A. procure, supply, transport, handle, properly store, assemble, erect and install all Equipment;

B. provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

C. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4;

D. perform shop and other inspections of the work of Subcontractors and Sub-subcontractors to ensure that such work meets all of the requirements of this Agreement;

E. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

F. pay all Contractor's Taxes incurred in connection with the Work in a timely fashion;

G. ensure that the Work is performed in accordance with the Train 1 Project Schedule;

H. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Train 1 Expansion, while supervising operations and maintenance personnel provided by Owner;

I. obtain all Permits required per Section 3.12;

J. provide reasonable, prompt assistance, information and documentation required or requested by Owner to enable Owner to obtain or modify the Permits listed in Attachment Q;

K. provide training and certification for Owner's operating and maintenance personnel per Section 3.5;

L. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

M. cooperate with and respond promptly to inquiries from Owner;

N. provide information and any other assistance reasonably requested by Owner with respect to Owner's contracting and interfacing with CenterPoint, including providing, on a timely basis, all information needed by CenterPoint regarding electrical demands of the Expansion Facility and specifying to CenterPoint all requirements of Contractor as well as review of any information provided by CenterPoint (including interface conditions) and attendance at meetings between Owner and CenterPoint;

O. be responsible for connecting the Train 1 Expansion (including designing, engineering and constructing the interconnections) to the permanent utilities to the extent set forth in Attachment A;

P. interface and cooperate with Owner's other contractors (which activities shall be coordinated by Owner), and provide necessary Drawings, Specifications and other information for interconnections to the Train 1 Expansion, including interconnections for the natural gas feed pipeline for the natural gas pretreatment facility, the natural gas liquids pipeline and the natural gas vapor return pipeline;

Q. supply all initial permanent (*i.e.*, non-startup) fills; and

R. perform, or cause to be performed, all design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 **Design and Engineering Work**.

A. ***General***. Contractor shall, as part of the Work, perform, or cause to be performed, all design and engineering Work in accordance with this Agreement and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees.

B. ***Drawings and Specifications***. Upon receipt of a limited notice to proceed ("***Limited Notice to Proceed***" or "***LNTP***") or the full notice to proceed ("***Notice to Proceed***" or "***NTP***") issued in accordance with Section 5.2, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall conform and comply with the requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

C. ***Review Process***.

1. *Over-the-Shoulder Review*. During the development of the Drawings and Specifications, Contractor shall provide Owner with the opportunity to perform "over-the-shoulder" reviews of the design and engineering in progress. Such reviews may be conducted at Contractor's office located in Houston, Texas, at any of its Subcontractor's or Sub-subcontractor's offices, or remotely by electronic internet access. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents determined by Owner.

2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment B.

3. *Review Periods*. Owner shall have up to ten (10) Business Days from its receipt of Drawings and Specifications submitted in accordance with Section 3.3C.2 to issue written comments, proposed changes and/or written approvals or disapprovals of the submission of such Drawings and Specifications to Contractor.

4. *No Owner Response*. If Owner does not issue any comments, proposed changes or written approvals or disapprovals within such time periods, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

5. *Disapproval by Owner*. In the event that Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of

comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in this Section 3.3C; *provided that* Contractor shall not be entitled to any extensions of time to the Train 1 Project Schedule, an adjustment to the Contract Price or any adjustment to any other Changed Criteria; *provided further, however*, to the extent Owner's disapproval of the Drawings or Specifications is due to one or more material changes by Owner to any such Drawings or Specifications, and not the result of such Drawings or Specifications non-compliance with the requirements of this Agreement, Contractor shall be entitled to a Change Order to the extent such Owner-required change adversely affects the Train 1 Project Schedule and/or the Contract Price and Contractor complies with and meets the requirements under Article 6.

6. *Approval or Non-Response by Owner*. Upon Owner's written approval of the Drawings and Specifications, or in the event that Owner does not issue any comments, proposed changes or written approval or disapprovals of such Drawings and Specifications pursuant to Section 3.3C.4, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work; *provided that* Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control. Due to the limited time for Owner's review of Drawings and Specifications, Contractor's or its Subcontractors' or Sub-subcontractors' expertise in the Work and Owner's reliance on Contractor to prepare accurate and complete Drawings and Specifications, Contractor recognizes and agrees that Owner is not required or expected to make detailed reviews of Drawings and Specifications, but instead Owner's review of Drawings and Specifications may be of only a general, cursory nature. Accordingly, any review or approval given by Owner under this Agreement, or any non-response under Section 3.3C.4, with respect to any Drawings or Specifications shall not in any way be, or deemed to be, an approval of any Work, Drawings or Specifications not meeting the requirements of this Agreement, as Contractor has the sole responsibility for performing the Work in accordance with this Agreement.

D. ***Design Licenses***. Contractor shall perform, or cause to be performed, all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

E. ***CAD Drawings***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings and Specifications prepared by

Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable AutoCAD.dwg (Version 10) or Intergraph 3D model in native format. Contractor shall use best efforts to also provide Drawings, including Record As-Built Drawings and Specifications, in other formats requested by Owner.

F. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep a redlined, marked, up-to-date set of As-Built Drawings and Specifications on the Site as required under Attachment B. Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment B, which shall include delivery of final as-built drawing files in fully operable and editable AutoCAD.dwg (Version 10) format or other format as agreed by Owner for Record As-Built Drawings (the "***Record As-Built Delivery Requirement***"). The Record As-Built Delivery Requirement shall include Record As-Built Drawings and Specifications for the entire Train 1 Expansion (including all Common Systems and Existing Facility Modifications), except the Expansion Facility Dock, which does not achieve Substantial Completion with the Train 1 Expansion pursuant to Section 11.2A. The Record As-Built Delivery Requirement shall be achieved by Contractor no later than ninety (90) Days after Substantial Completion of the Train 1 Expansion (the "***Guaranteed Record As-Built Delivery Date***").

G. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment B within and in accordance with the requirements and timing set forth in Attachment B.

3.4 **Spare Parts**.

A. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Train 1 Expansion to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving RLFC for the Train 1 Expansion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Contract Price, including the cost to procure such spare parts and the actual purchase price of such spare parts.

B. ***Capital Spare Parts***. The cost associated with all Work related to procuring the Capital Spare Parts identified in Attachment W (including the purchase price for such Capital Spare Parts) is included within the Contract Price. The Capital Spare Parts shall be delivered to the Site as a condition of Substantial Completion. For purposes of clarity, Capital Spare Parts may be utilized by Contractor prior to achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use.

C. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion (but only to the extent not taken into consideration by the Capital Spare Parts listed in Attachment W), Contractor shall deliver to Owner for Owner's written approval a detailed list of the manufacturer and Contractor-recommended spare

parts for each applicable item of Equipment necessary for operating such Equipment (including components and systems of such Equipment) for two (2) years. Such list shall be provided to Owner for each item of Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract or Sub-subcontract for such Equipment. Owner shall have ten (10) Business Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract or Sub-subcontract. The cost associated with all Work related to the two (2) years' operating spare parts is included in the Contract Price, except for the actual purchase price and delivery costs of such spare parts. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2A.6 to increase the Contract Price for the actual purchase price and delivery costs of such requested operating spare parts. For purposes of clarity, operating spare parts may be utilized by Contractor after achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use (including replacement of the used operating spare part at Contractor's expense).

3.5 **Training Program in General**. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion (but not to exceed the number of Persons listed in Attachment V) shall be given training designed and administered by Contractor at its expense, which shall be based on the program requirements contained in Attachment V and shall cover the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter reasonably required by Owner. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Expansion Facility during commissioning, testing and start-up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's or Sub-subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment V. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate training of Owner personnel hired in the future. Owner agrees that within forty-eight (48) hours after receipt of written notice from Contractor, it shall remove any employee or agent of Owner in the training program who, in Contractor's reasonable opinion, is unsafe, incompetent, careless, incapable of being trained, creates an unsafe or hostile work environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL HAVE NO LIABILITY AND OWNER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM OWNER TERMINATING THE EMPLOYMENT OF OR

REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY CONTRACTOR TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Owner shall replace any such employee at its sole cost and expense.

3.6 **Environmental Regulations and Environmental Compliance**. Without limitation of Section 3.1, Contractor is responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment and Applicable Law and in compliance with the policies and procedures set forth in Attachment J. Contractor shall, at its sole cost and expense, dispose of all non-hazardous wastes and Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site (including any laydown areas), or generate from Hazardous Materials brought onto the Site during performance of the Work, which shall be disposed at off-Site disposal facilities approved by Owner and permitted to receive such wastes and Hazardous Materials. Contractor shall report to Owner, as soon as reasonably possible after having knowledge thereof and in no event later than one (1) Day after such occurrence, any violation of the foregoing. In addition to Section 17.1C, Contractor shall, at its sole cost and expense, remediate the release of any Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site, or generate from Hazardous Materials brought onto the Site, in violation of this Section 3.6.

3.7 **Contractor's Tools and Equipment**. Contractor shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such tools, machinery, structures, scaffolding or equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against Owner, Lender and any Owner Affiliates.

3.8 **Employment of Personnel**.

A. Contractor shall not employ, and shall require that any Subcontractor or Sub-subcontractor not employ, in connection with its performance under this Agreement anyone not skilled or qualified to perform the work assigned to such Person. Contractor agrees to promptly remove or reassign (or to require any Subcontractor or Sub-subcontractor to remove or reassign) from its services in connection with the Work any Person performing Work at the Site who does not meet the foregoing requirements. In addition, Contractor agrees that within forty-eight (48) hours after receipt of written notice from Owner, it shall remove from the Work any employee or agent of Contractor or of Contractor's Subcontractors or Sub-subcontractors who, in Owner's reasonable opinion, is unsafe, incompetent, careless, creates an unsafe or hostile work environment, persists in any conduct which is prejudicial to safety, health or the protection of the environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work.

NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Contractor shall replace any such employee at its sole cost and expense.

B. Contractor is responsible for maintaining labor relations in such manner that there is harmony among the employees of Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site. Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site shall conduct their labor relations in accordance with the recognized prevailing local area practices. Contractor shall inform Owner 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. Contractor further agrees to inform Owner, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations. In the event of any labor dispute which threatens to adversely affect the progress of the Work, Owner reserves the right to restrict additional hiring of workers and to suspend or terminate the Work as set forth in Sections 16.3 and 16.2, respectively.

C. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature (unless prohibited by Applicable Law), knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of Owner is determined to be a potential weapon; (ii) alcoholic beverages of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) any animal; (v) illegal or Owner-prohibited drugs of any nature; (vi) any drugs (whether prescription or non-prescription) which impair physical or mental faculties; or (vii) any prescription drugs without a valid prescription.

In connection with the enforcement of this Section 3.8C, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contactor shall provide Owner with copies of such drug screening tests (subject to any restrictions imposed by Applicable Law). For Contractor, Subcontractor, and Sub-subcontractor employees and agents working in D.O.T-regulated functions, the drug screening policies for such employees and agents shall meet the D.O.T. approved drug and alcohol program requirements. Further, for Contractor, Subcontractor and Sub-subcontractor employees and agents performing "covered functions" (as defined by 49 CFR Part 199), the drug screening policies for such employees and agents shall be compliant with 49 CFR Part 199. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8C, and shall promptly remove from the Work any employee or agent of

Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8C. The provisions of Section 3.8A with regard to liability of any of the Owner Indemnified Parties and Contractor's release, indemnification, defense and hold harmless obligations shall apply to the removal of any such Person under this Section 3.8C.

3.9 **Clean-up**. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its Subcontractors or Sub-subcontractors. Without limitation of the foregoing or limiting Contractor's obligations, Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice. As soon as practicable after the completion of all Punchlist items, Contractor shall remove, at its own cost, all of its equipment, materials and other items not constituting (or intended to constitute) part of the Facility and remove all waste material and rubbish from the Site and restore the Site in accordance with all Permits and this Agreement; *provided, however*, for purposes of clarity, the foregoing removal and restoration obligations at the Site shall not extend to equipment, materials and other items being utilized by Contractor for the construction of the Train 2 Expansion. In the event of Contractor's failure to comply with any of the foregoing, Owner, having given Contractor five (5) Days prior notice, may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole option) all documented, direct costs associated with such removal and/or restoration, including costs associated with permitting, transportation and disposal at an authorized location.

3.10 **Safety and Security**. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval thirty (30) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Train 1 Expansion, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner after Work has commenced at the Site. Contractor further agrees to provide or cause to be provided necessary training and safety equipment to its employees, Subcontractors and Sub-subcontractors to ensure their compliance with the foregoing safety and health rules and standards and enforce the use of such training and equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law or by Owner and shall furnish Owner a Monthly summary of hours worked, injuries and labor hours lost due to injuries. Should Owner at any time observe Contractor, or any of its Subcontractors or Sub-subcontractors, performing the Work in an unsafe manner, or in a manner that may, if continued, become unsafe, then Owner shall have the right (but not the obligation) to require Contractor to stop the Work until such time as the manner of performing

the Work has been rendered safe to the satisfaction of Owner; *provided, however*, that at no time shall Contractor be entitled to an adjustment of the Contract Price or Train 1 Project Schedule based on such work stoppage. Contractor shall be responsible for the security, fencing, guarding and lighting of the Train 1 Expansion and the Train 1 Expansion Site (except for those portions of the Train 1 Expansion Site falling within the security perimeter of the Existing Facility) until the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 1 Expansion. Upon the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 1 Expansion, the Train 1 Expansion Site shall be incorporated into the security perimeter of the Existing Facility maintained by Owner (itself or through its Affiliates) and thereafter access to, and Work therein, will be subject to Owner's (or its Affiliates') site security requirements and other obligations under this Agreement with respect to performing Work in the Existing Facility Site as further set forth in Attachment V and Section 3.10B below; *provided that*, Contractor shall be able to continue to utilize its permit-to-work system and safety requirements meeting the requirements of this Agreement until Substantial Completion of the Train 1 Expansion. Nothing in this Section 3.10 shall affect Contractor's status as an independent contractor.

A. All Work performed hereunder shall comply with the minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of facilities contained in Title 49, Code of Federal Regulations (C.F.R.), Parts 192 (to the extent applicable) and 193 and in Title 33, C.F.R. Part 127. Contractor shall comply with requirements of the Operator Qualification Program that are outlined in Sub-Part H of 49 C.F.R. Part 193 and Sub-Part G of C.F.R. Part 195, where applicable. The term "pipeline facilities" shall include new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas, including LNG, or treatment of gas during the course of transportation. The term "transportation of gas" shall include the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

B. Any Work performed on the Existing Facility Site shall be conducted in accordance with the Existing Facility Site's safety and security rules and procedures. Each Contractor, Subcontractor or Sub-subcontractor personnel or representative needing access to the Existing Facility Site shall also have valid Transportation Worker Identification Credentials (TWIC card). In addition, each such personnel or representative shall have a valid TWIC card when, and to the extent, all or portions of the Train 1 Expansion Site become regulated by the Transportation Security Administration, which, in any event, shall be no later than when such portion of the Train 1 Expansion Site is incorporated into the Existing Facility's security perimeter pursuant to Section 3.10. Contractor acknowledges that it has fully investigated the Existing Facility Site's access requirements and procedures, as well as its site safety and security rules and procedures, and has taken such requirements, rules and procedures into account in planning the Work to be performed in accordance with the Train 1 Project Schedule. As such, Contractor shall not be entitled to a Change Order to adjust the Contract Price or Train 1 Project Schedule as a result of its personnel's (or that of its Subcontractors or Sub-subcontractors) compliance with such access, safety and security requirements, rules and procedures.

3.11 **Emergencies**. In the event of any emergency endangering life or property in any way relating to the Work, the Facility or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be under no obligation to, take reasonable action as required to address such emergency. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability. Contractor shall reimburse Owner for the performance of any work or furnishing of any equipment or other items in connection with any emergency in an amount equal to the reasonable costs incurred by Owner in such performance of work or furnishing of equipment or other items.

3.12 **Approvals, Certificates, Permits and Licenses**. Contractor shall obtain the Permits listed in Attachment P as well as (i) those Permits for the Train 1 Project that are required to be maintained in Contractor's (or its Subcontractor's or Sub-subcontractor's) name and (ii) non-project specific Permits necessary for Contractor to do business as a contractor in the State of Texas performing work of the nature contemplated herein. If requested by Owner, Contractor shall provide to Owner within five (5) Days after such request copies of all applications made for any such Permits and all material correspondence received or sent in respect of such applications. Contractor shall provide Owner with copies of such Permits as soon as they are obtained. Contractor shall provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained by Owner in Attachment Q.

3.13 **Books, Records and Audits**.

A. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with generally accepted accounting principles applicable in the United States 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. To the extent practicable, Contractor shall maintain such Books and Records in a manner that would allow them to be segregated into Books and Records relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work; *provided that*, notwithstanding the foregoing, Books and Records relating to all Work performed under any Change Order shall be segregated by Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

B. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records with respect to (i) any Drawings, Specifications or other technical documents required under this Agreement to be prepared, delivered or maintained by Contractor or any of its Subcontractors; (ii) any documents relating to

safety, security, quality or Permits relating to this Agreement; (iii) any amounts billed under unilateral Change Orders, or under cost reimbursable or unit price Change Orders; and (iv) any Provisional Sum Scope Items and any Provisional Sum amounts as well as the amounts making up the Fixed Sum Prices and the scopes of Work related thereto; *provided*, *however*, that such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with the internal composition of any compensation that is fixed in amount hereunder (including the composition of any markups, unit rates or fixed percentages or multipliers specified in this Agreement). When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records during normal business hours, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Contractor shall bear, at its own cost and expense, all costs incurred by it in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions substantially similar to this Section 3.13 in all Major Subcontracts. The restrictions in this Section 3.13B to the audit rights of Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law, in discovery in any arbitration or litigation arising out of Article 18 or in any litigation or arbitration against Guarantor.

C. Contractor shall not, and shall provide that its Subcontractors, Sub-subcontractors and agents or employees of any of them shall not, without Owner's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee, officer or consultant of Owner or its Affiliates, (ii) favor employees, officers or consultants of same with gifts or entertainment of any significant cost or value, or (iii) enter into any business arrangements with employees, officers or consultants of same.

3.14 **Tax Accounting**. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and Contractor's prices to Owner for any Equipment installed on or ordered for the Train 1 Expansion and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of Owner's tax returns or other tax documentation or the determination of Equipment that constitutes Tax Exempt Equipment listed in Attachment FF.

A. Contractor acknowledges that Owner is pursuing ad valorem tax abatements through the Texas Commission on Environmental Quality, and upon request Contractor shall provide documentation required or requested by the Texas Commission on Environmental Quality in order for Owner to perfect such abatement related to the cost of Equipment, including Equipment cost, cost of fabrication and design specifications, installation labor costs and overhead and other indirect costs. Documentation may consist of asset name or equipment reference number, a description of the asset, invoice copies showing Subcontractor name, invoice number, delivery date, and purchase amount. If reasonably requested by Owner, Contractor agrees to offer similar assistance to Owner toward any other federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF.

B. In the event that Contractor fails to provide the documentation described in Sections 3.14 and 3.14A, Contractor will be responsible to Owner for any resulting reduction in the tax benefit amount that Owner would otherwise be entitled to receive under the relevant federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF. Contractor shall be liable for and shall pay to Owner the amount of such reduction to the extent Owner was otherwise ready and capable of fulfilling all of Owner's compliance obligations and requirements with the applicable taxing entity in a timely fashion.

3.15 **Temporary Utilities, Roads, Facilities and Storage**. Contractor shall provide and pay for all utilities (*e.g.*, electricity (except as provided by Owner pursuant to Section 4.8B), water, communication, cable, telephone, waste and sewer), including all connections and substations, necessary for the performance of the Work, including installation, Permit and usage costs. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. Contractor shall provide Owner with office space in accordance with the requirements set forth in Attachment A at the time of Contractor's mobilization at the Site to accommodate Owner's Site representatives and support staff. Contractor shall provide Owner with all office space (as required by Attachment A), construction trailers, utilities, security, telephones, furnishings, and other temporary facilities required for their oversight of the Work, as set forth in more detail in Attachment A. All Equipment and other items comprising part of the Work stored at a location other than on the Site shall be segregated from other goods, and shall be clearly marked as "Property of FLIQ Common Facilities, LLC."

3.16 **Subordination of Liens**. In consideration of ten and no/100 U.S. Dollars (U.S.$10) incorporated into the Contract Price and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor, Contractor hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender or any lender of Owner's Affiliates, whether such lien in favor of such Persons is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender or any lender of Owner's Affiliates, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner's property and the Site are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 **Hazardous Materials**. Contractor shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Contractor may bring onto the Expansion Facility Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and the requirements specified in Attachment J, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials; *provided further, however*, if

Contractor needs to bring any Hazardous Materials onto the Existing Facility Site for the performance of the Work, Contractor shall receive Owner's prior written approval (such approval not to be unreasonably withheld) before bringing such Hazardous Materials onto the Existing Facility Site, and Contractor shall comply with Applicable Law, Applicable Codes and Standards, the requirements specified in Attachment J, and any Existing Facility Site-specific safety or security rules or procedures regarding such Hazardous Materials, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials. If Contractor or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Site, and Contractor or any Subcontractor or Sub-subcontractor knows or reasonably suspects that such material is Hazardous Material, Contractor and its Subcontractors and Sub-subcontractors shall immediately stop Work in the affected area and notify Owner. If under such circumstances Contractor or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify Owner, Contractor shall be responsible and liable to Owner in accordance with Section 17.1C for all damages, costs, losses and expenses to the extent relating to such failure.

3.18 **Quality Assurance**.

A. No later than sixty (60) Days after the date Owner issues NTP, Contractor shall submit to Owner for its review and written approval, an Expansion Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's Quality Management System and Subcontractor source inspection plan as required by Attachment EE. No later than ninety (90) Days after the date Owner issues NTP, Contractor shall submit to Owner for its written approval, detailed construction inspection and test plans and supporting construction procedures as required by Attachment EE. Prior to the commencement of the Work, detailed quality assurance and quality control procedures and plans applicable to the Work shall be issued to Owner in accordance with Attachment EE. Owner's review and approval of Contractor's quality plan, Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this Agreement. As part of the quality plan, the Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans, Contractor agrees that it shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including the Lender independent engineer's) review a copy of all such inspections.

B. Before proceeding with the Work, Contractor shall furnish satisfactory evidence as to the kind, quality, and quantity of all Equipment. Without prior written approval by Owner which specifically waives the requirements of this Agreement, Contractor shall not use any Equipment other than as specified in this Agreement. If Contractor wishes to modify the requirements contained herein, then it shall make written application to Owner for Owner's approval, in Owner's sole discretion, prior to performing any such Work. Such application shall (i) identify the requirements being modified, (ii) certify that the quality of the proposed substitute is equal to or better than that currently specified, and (iii) certify that the substitute is suited to the same use and capable of performing the same function as that specified. If the preceding requirements

are not followed, then any substitution shall constitute a Contractor Default. All Equipment shall be fabricated, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions of the applicable Subcontractor or Sub-subcontractor.

3.19 **Reports and Meetings**.

A. ***Reports***. Contractor shall provide Owner with an electronic copy of progress reports and such other information as reasonably requested by Owner, including the following:

1. minutes for all status and other Train 1 Expansion-related meetings within five (5) Business Days following such meeting;

2. safety or environmental incident reports within three (3) Business Days after the occurrence of any such incident (including "near miss" incidents where no individual was injured or property was damaged) relating to the Work, except for any safety or environmental incident involving a significant non-scheduled event such as LNG or natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; *provided, however,* notification shall be provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work;

3. weekly (or such duration as otherwise agreed by Owner in writing) progress reports for the Work ("***Weekly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X, which shall be provided one (1) Day prior to the weekly progress meeting and shall cover all activities up to the end of the previous week; and

4. Monthly progress reports for the Work ("***Monthly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X. Contractor shall provide the Monthly Progress Report no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall arrange for the electronic distribution of the Monthly Progress Report as Owner may reasonably request.

The Parties acknowledge that the Weekly Progress Reports and Monthly Progress Reports provided in accordance with this Section 3.19A shall include information for both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be reported separately in accordance with Attachment X).

B. ***Meetings***.

1. A weekly progress meeting shall occur every week at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior week. The meetings shall be attended by the Owner Representative, the Contractor Representative, the Owner planning and scheduling representative, the Contractor planning and scheduling representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

2. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior Month and to review the Monthly Progress Report for that Month with Owner. The Monthly progress meeting shall be attended by the Owner Representative, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

3. The Parties acknowledge that the weekly and monthly progress meetings held in accordance with this Section 3.19B shall include information related to both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be discussed separately in accordance with Attachment X).

3.20 **Payment**. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.21 **Commercial Activities**. Neither Contractor 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 Site or any other lands owned or controlled by Owner; *provided, however*, lunch wagons and vending machines may be permitted upon prior written approval by Owner.

3.22 **Title to Materials Found**. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by Owner. Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 **Survey Control Points and Layout**. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to Section 4.7. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control points

provided by Owner, such control points shall be replaced by Contractor at Contractor's own expense and Contractor shall be liable to Owner for all other damages, costs, losses and expenses arising out of such relocation or destruction.

3.24 **Cooperation with Others**.

A. Subject to the provisions of this Agreement, including Section 4.3, Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. As such, but subject to the provisions of this Agreement (including Section 4.3), Owner reserves the right to require Contractor 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, *provided that*, but subject to Sections 21.22 and 3.24B, if Owner's requirement to reschedule the Work interferes with Contractor's performance of the Work, Contractor shall be entitled to a Change Order to the extent allowed under Section 6.9.

B. Contractor understands that Owner may choose to expand the Expansion Facility (beyond the current Scope of Work and the Train 2 EPC Agreement) under one or more separate agreements, including adding additional natural gas pretreatment and liquefaction units. Such other agreements may or may not involve Contractor and may be performed during the course of the completion of the Work covered under this Agreement. In the event Contractor is not participating in such separate agreement(s), Contractor agrees to cooperate with Owner's other contractor(s) so as not to materially interfere with such other contractor, and Owner agrees to require its other contractor to cooperate with Contractor so as not to materially interfere with Contractor. In the event Contractor does participate in any or all such separate agreements, Contractor acknowledges that any such work performed by Contractor shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 1 Project Schedule or any other Changed Criteria.

3.25 **Scheduled and Unscheduled Activities Involving Existing Facility**.

A. ***Scheduled Activities***. Listed in Attachment CC is the Work (i) that is being performed on the Existing Facility Site or (ii) which may interfere with the operation of the Existing Facility (including any Existing Facility Modifications which have been Handed Over pursuant to Section 11.2B). No later than fourteen (14) Days prior to performing such Work, Contractor shall provide Owner with a written plan listing the Work to be performed and proposing in detail how Contractor intends that such Work will be performed to minimize, to the greatest extent reasonably possible, interference with the operation of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B). The plan proposed by Contractor shall be the least disruptive to operations of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B), unless such plan is disproportionately expensive when compared to the impact on such operations. Prior to the execution of such Work, Owner and Contractor shall mutually agree upon a proposed plan for Contractor to execute such Work.

B. ***Unscheduled Activities***. It is the Parties' intent that, except for the activities listed in Attachment CC, the performance of the Work and Contractor's other obligations under this Agreement will not be performed on the Existing Facility Site or interfere with the operation of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B). During the performance of the Work, should a situation arise that requires additional Work to be performed on the Existing Facility Site, or which Contractor reasonably believes has the potential of interfering with the operation of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B), Contractor shall, except in an emergency endangering property or any Persons, give Owner written notice as soon as possible but no later than seven (7) Days' prior to the time that Contractor plans to perform such Work, detailing a plan that meets the requirements of Section 3.25A. Emergency actions are governed by Section 3.11. Prior to performing such Work, Owner and Contractor shall mutually agree on a proposed plan for Contractor to execute such Work. Notwithstanding Owner's agreement to the schedule and the plan for the performance of such Work, Owner may, in its sole discretion, subsequently prohibit the performance of such Work on such scheduled date, and Contractor shall work with Owner to develop a new plan and date for performing such Work in accordance with this Section 3.25B, and in such case Contractor shall be entitled to a Change Order to the extent permitted under Section 6.2A.1.

3.26 **Responsibility for Property**. Contractor shall carry out the Work so as not to interfere unnecessarily or improperly with, or damage, any access to, use or occupation of, public or private roads and footpaths or properties whether in the possession of Owner or of any other Person. Contractor shall liaise with, and ascertain the requirements of, all Governmental Instrumentalities in relation to vehicular access to and egress from the Site and shall comply with those requirements. Contractor shall so organize the Work as to minimize, and if required by any Governmental Instrumentalities having jurisdiction over such roads or footpaths, avoid vehicular travel during peak travel time on public roads, such as (but not limited to) school start and finish times. Contractor shall prevent damage to any highway or bridge by any traffic of Contractor or any Subcontractor or Sub-subcontractor and in particular, but without limitation, shall select routes, obtain all permits and permissions from relevant Governmental Instrumentalities, choose and use vehicles, and restrict and distribute loads so that any traffic interference which may arise from the moving of equipment and materials to and from the Site shall be limited as far as reasonably possible and so that no damage will be caused to highways and bridges. Contractor shall be deemed to have satisfied itself as to and shall be fully responsible for the routing for delivery of heavy or large loads to the Site or other locations where Work is performed. Contractor shall be fully responsible for all damages, losses, costs and expenses arising out of damage to such third-party property and shall promptly restore at its own cost and expense such property to the condition it was in before such damage. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site. Where the nature of the Work is such as to require the use by Contractor of waterborne transport, Contractor shall avoid, or minimize to the extent possible, any interference by Contractor with the access by and use of the common harbor, waterways and jetty by other Persons.

3.27 **Explosives**. Explosives shall be transported to the Expansion Facility Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives. Residual surplus explosives shall be promptly removed from the Expansion Facility Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.28 **Nondiscrimination**. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, national origin, religion, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.28.

3.29 **Used or Salvaged Materials**. If, after Substantial Completion and prior to Final Completion, Contractor has any Equipment (including commissioning spare parts) remaining that it intended for use with the Train 1 Expansion but did not incorporate therein, Contractor has the option to use such Equipment for the Train 2 Expansion as Contractor deems necessary. If, after substantial completion under the Train 2 EPC Agreement, any Equipment (including commissioning spare parts) procured by Contractor under this Agreement was not incorporated into the Expansion Facility, then Owner shall have the option to take such Equipment at no cost to Owner or require that Contractor haul off such Equipment at Contractor's own cost and expense. Notwithstanding the foregoing, all Capital Spare Parts and operating spare parts itemized on the Owner-approved spare parts list prepared pursuant to Section 3.4 shall be the property of FLIQ CF and shall only be utilized by Contractor upon Owner's prior written agreement in accordance with such Section 3.4.

3.30 **Supervision of Owner's Operation Personnel**. Until Substantial Completion (but subject to Owner rights under Section 11.8), Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Train 1 Expansion shall be under the control of and supervised by Contractor; *provided, however*, Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Expansion Facility Dock shall be under the control of, and supervised by, Contractor until substantial completion of the Expansion Facility Dock is achieved under the Train 2 EPC Agreement; *provided further, however*, notwithstanding the foregoing, all such operating and maintenance personnel shall remain employees or agents of Owner (or its Affiliates) and shall not be considered employees of Contractor for any reason. To the extent not set forth in Attachment V, Contractor shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, prepare for Owner's review a proposed plan regarding the utilization of Owner's (or its Affiliates') operation and maintenance personnel and Contractor's personnel during

pre-commissioning, commissioning, start-up and operations of the Train 1 Expansion and the conduct of Performance Tests and any other tests for the Train 1 Expansion. Each such plan shall be prepared so as to minimize, to the extent reasonably possible under the circumstances (considering the need to keep the Existing Facility operable), any impact on the operation of the Existing Facility and to take into account the Existing Facility operating and maintenance procedures, the number of operating and maintenance personnel available to Owner for participation in pre-commissioning, commissioning, start-up and Performance Testing, safety issues for the Train 1 Expansion and the type of activities to be performed. Such plan shall be mutually agreed-upon by the Parties no later than forty-five (45) Days after Owner's receipt of Contractor's proposed plan. Without in any way limiting Contractor's obligation to provide forces and labor during commissioning and Performance Testing, Contractor agrees that if any activity requires direct supervision by Contractor, such activity shall be performed by Contractor or a Subcontractor or Sub-subcontractor. Nothing in this Agreement, including this Section 3.30 or Section 3.2H, shall be interpreted to create a master-servant or principal-agent relationship between Contractor and any of Owner's (or Owner's Affiliates') operation or maintenance personnel.

3.31 **Use of Owner Equipment or Facilities**. Where Contractor requests from Owner and Owner agrees in writing to make available to Contractor certain construction equipment (*e.g.*, cranes, mules, tools, etc.) belonging to Owner for the performance of the Work, the following shall apply:

A. Owner-provided construction equipment shall be charged to Contractor at rental rates to be agreed between them;

B. Owner shall furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by Contractor during the rental period;

C. Contractor shall assure itself of the condition of such construction equipment and assume all risks and responsibilities during its use, it being understood by the Parties that any use of Owner's construction equipment is strictly on an "AS IS" basis and OWNER HEREBY DISCLAIMS, AND CONTRACTOR HEREBY WAIVES, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH CONSTRUCTION EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, CONDITION, OR FITNESS FOR ANY PARTICULAR PURPOSES OR USE;

D. To the fullest extent permitted by Applicable Law, Contractor shall, notwithstanding anything to the contrary in Article 17, release, defend, indemnify and hold harmless Owner Indemnified Parties from and against any and all claims, demands and liabilities directly or indirectly arising from the use of such construction equipment;

E. Owner and Contractor shall jointly inspect such Owner equipment or facilities before their use and upon their return. Any damage or destruction of such construction equipment, other than normal wear and tear, shall be repaired or replaced at Contractor's expense; and

F. If such construction equipment is furnished with an operator, the services of such operator shall be performed under the complete direction and control of Contractor and such operator shall be considered Contractor's employee for all purposes other than the payment of wages, workers' compensation insurance and other employment benefits.

3.32 **Compliance with Real Property Interests**. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors performing Work at the Site to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work.

ARTICLE 4
OWNER'S RESPONSIBILITIES

Owner shall comply with the following provisions in a timely manner:

4.1 **Payment**. Owner shall timely pay the Contract Price in accordance with the provisions of Article 7 hereof.

4.2 **Permits**. Owner shall be responsible for obtaining the Permits listed in Attachment Q. To the extent Owner has not obtained any Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment Q and Owner shall provide Contractor with copies of such Permits within ten (10) Business Days after obtaining them. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 **Access to the Site**. Owner shall provide Contractor with reasonable access on the Train 1 Expansion Site. Subject to Section 3.24, such access shall be sufficient to permit Contractor to progress with Work (including as necessary to perform Work under an LNTP) on a continuous basis without substantial interruption or interference. In addition, Owner shall provide Contractor with reasonable access on the Existing Facility Site necessary for the performance of the Work; *provided, however*, except as allowed pursuant to Section 3.25, such access shall not interfere with the operation of the Existing Facility, nor shall it interfere with the performance of work by Owner's other contractors or subcontractors or other Persons. Contractor shall have the obligation to coordinate the performance of the Work with Owner and with any of Owner's other contractors or subcontractors as required in Sections 3.2P and 3.24.

4.4 **Operation Personnel**. Owner shall retain (through itself or an Affiliate) operating and maintenance personnel sufficient to pre-commission, commission, start-up and test the Train 1 Expansion under the supervision of Contractor during commissioning as set forth in Attachment V. Such personnel performing activities for the Train 1 Expansion shall be under the control of and supervised by Contractor in accordance with Section 3.30. For clarity, however, Owner (or its Affiliate) shall provide and pay for all of Owner's (or such Affiliate's) operating and maintenance personnel, including all wages, fringes, taxes and insurance.

4.5 **Texas Sales and Use Taxes**.

A. ***Sales and Use Taxes Exemption Certificates on Exempt Equipment***.

1. For Texas state and local sales and use tax purposes, this Agreement shall be considered to be a separated contract for the construction of new non-residential real property as defined under Applicable Law, including 34 Tex. Admin Code Rule § 3.291(a)(13). Contractor shall ensure that all Subcontracts are separated for Texas state and local sales and use tax purposes.

2. Listed in Attachment FF are those items of Equipment (including materials) to be permanently installed in the Train 1 Project in which Owner intends to claim a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes under Applicable Law, including the governing law specified in Section 21.9 ("***Tax Exempt Equipment***"), which such list may be adjusted by Owner at its sole discretion by Change Order. In addition, with respect to any additional items of Equipment added by Change Order which are subject to a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes, Owner will update the list of Tax Exempt Equipment in Attachment FF.

3. Prior to issuance of NTP or any LNTP directing Contractor to procure any Equipment, and to the extent not already included in Attachment GG, Owner shall issue a Texas direct pay exemption certificate and Texas Sales and Use Tax Exemption Certificate(s) to Contractor, and Contractor shall not invoice Owner for Texas state and applicable local sales and use tax on the separately stated Tax Exempt Equipment Price and separately stated Taxable Equipment Price. Pursuant to direct pay permit status, Owner shall pay Texas state and applicable local sales and use tax directly to the State of Texas and the applicable local Governmental Instrumentality on the Taxable Equipment Price. Contractor shall provide the documents and information necessary to allow the Owner to properly determine this tax liability. Contractor shall maintain for Owner's review copies of Texas state and applicable local sales and use tax exemption certificates and other similar documentation necessary to support all Texas state and applicable local sales and use tax exemptions that may be available to Owner, Contractor or any Subcontractor or Sub-subcontractor in connection with the Work.

4. Contractor shall reasonably cooperate with Owner to minimize any and all Texas state and applicable local sales and use taxes relating to the Train 1 Project. If Contractor or any Subcontractor or Sub-subcontractor incurs any Texas state and applicable local sales and use taxes on any items of Tax Exempt Equipment or Taxable Equipment listed in Attachment FF for which Owner provided Contractor with a valid applicable Texas state and applicable local sales and use tax exemption certificate or direct pay exemption certificate, Contractor shall be responsible for the payment of such Texas state

and applicable local sales and use taxes without reimbursement by Owner and CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY CLAIMS BY A GOVERNMENTAL INSTRUMENTALITY FOR SUCH TEXAS STATE AND APPLICABLE LOCAL SALES AND USE TAXES.

B. ***Additional Contractor Texas Sales and Use Tax Responsibilities***. Contractor shall be considered a retailer of all Equipment incorporated into the Work. Contractor shall issue a valid Texas sales and use tax resale exemption certificate for Taxable Equipment and Tax Exempt Equipment to its Subcontractors, and Contractor shall not pay, consistent with such exemption certificate, any sales and use tax on Taxable Equipment and Tax Exempt Equipment to Subcontractors. Notwithstanding the foregoing, Contractor shall remain responsible for the payment of all Taxes on account of the Work, including Texas state and applicable local sales and use taxes on any purchase, lease or rental of construction equipment and on any other purchases related to Work other than the Tax Exempt Equipment and Taxable Equipment.

4.6 **Hazardous Materials**. Owner shall remediate, remove, transport or dispose of any Hazardous Materials discovered or released at the Site (including Hazardous Materials used or generated by operation of the Existing Facility), including any Hazardous Materials brought on the Site by third parties, but excluding any Hazardous Materials that are the responsibility of Contractor pursuant to Section 3.17. Contractor shall provide reasonable assistance to Owner in its Hazardous Material remediation efforts. OWNER SHALL DEFEND, INDEMNIFY AND HOLD CONTRACTOR INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES) INCURRED BY CONTRACTOR CAUSED BY ANY HAZARDOUS MATERIALS FOR WHICH OWNER IS RESPONSIBLE UNDER THIS SECTION 4.6.

4.7 **Legal Description and Survey**. Owner shall provide to Contractor for Contractor's information a legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point.

4.8 **Owner Provided Items**. Owner shall provide those items listed in this Section 4.8 and in Attachment Z within the times listed therein, subject to the requirements and limitations set forth in this Section 4.8.

A. ***Natural Gas Feed to Achieve Substantial Completion***. As between Owner and Contractor under this Agreement, Owner shall procure and make natural gas feed available for commissioning, start-up, cool down and testing of the Train 1 Expansion (including natural gas or LNG utilized in the initial cool-down of the Train 1 Expansion). The natural gas feed to the Train 1 Expansion will meet the pressure, temperature and quality requirements set forth in Schedule A-2 in accordance with this Section 4.8A and the delivery requirements as set forth by Section 4.8A(i) below. Such natural gas feed shall be made available by (or on behalf of) Owner at the inlet of the natural gas pretreatment facilities to be constructed by Contractor as part of the Work. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all natural gas feed in order for Contractor to achieve Substantial Completion. Contractor

shall use GECP to minimize the amount of natural gas flaring or venting that is necessary to achieve Substantial Completion, and the start-up, commissioning and testing procedures agreed upon by the Parties shall be developed and administered in a manner to minimize natural gas flaring and venting. Further, Owner and Contractor will use reasonable efforts to allow for recirculation of natural gas and LNG between the Existing Facility and the Train 1 Expansion to aid Contractor in the start-up, cool down, commissioning and testing of the Train 1 Expansion to assist in minimizing the amount of natural gas flaring or venting necessary to achieve Substantial Completion.

(i) In order for Owner to schedule the procurement of natural gas feed to be provided by Owner in accordance with Section 4.8A, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing its first delivery of natural gas feed for the Train 1 Expansion. Within such written notice, Contractor shall provide Owner with a range of days and a range of flows for each Day which Contractor, using GECP, believes it will need for delivery of natural gas feed in order to achieve Substantial Completion. No later than the twentieth (20^{th}) day of the Month prior to the Month in which natural gas feed will first be delivered, Contractor will provide a second written notice to Owner with an updated forecast of the days and amounts of natural gas feed deliveries for such Day necessary to achieve Substantial Completion of the Train 1 Expansion, which such Days and amounts shall be within the ranges provided by Contractor in its initial notice. If Contractor provides the above notices in accordance with this Section 4.8A(i), Owner will procure such natural gas feed in accordance therewith, subject to the limitations set forth in Section 4.8A; if Owner fails to provide natural gas feed as required herein, and Contractor provided Owner with the notices required by this Section 4.8A(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the natural gas feed). Owner shall use reasonable efforts to procure natural gas feed deliveries in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure natural gas feed deliveries which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 1 Project Schedule or any other Changed Criteria.

B. ***Electrical Power Requirements to Achieve Substantial Completion***. Contractor shall procure and pay for all electricity necessary for the design, engineering, procurement and construction of the Train 1 Expansion until RFSU of the Train 1 Expansion; *provided that*, for purposes of clarity, Contractor shall continue to provide electricity for the design, engineering, procurement and construction of the Expansion Facility Dock until it is Ready for Startup in accordance with this Agreement. Thereafter, as between Owner and Contractor under this Agreement, Owner shall procure and make electricity available for the Train 1 Expansion meeting the requirements set forth in Schedule A-2 in accordance with this Section 4.8B for the commissioning, start-up and testing (including Performance Testing) of the Train 1 Expansion. Such electricity feed shall be made available by (or on behalf of) Owner at the interface between CenterPoint's high voltage transmission lines and the Facility's high voltage transmission lines. As

between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all electricity necessary from RFSU for achievement of Substantial Completion of the Train 1 Expansion. Contractor shall use GECP to use electricity in the most efficient manner practicable between RFSU and Substantial Completion of the Train 1 Expansion and minimize the consumption of electricity that is not utilized in producing incremental volumes of LNG meeting the specifications of this Agreement. The start-up, commissioning and testing procedures to be agreed upon by the Parties shall be developed and administered in a manner to ensure efficient use of electricity. For purposes of clarity, after Substantial Completion of the Train 1 Expansion and as between Owner and Contractor under this Agreement, Owner shall provide and pay for all electricity consumed by the Train 1 Expansion (whether consumed in the production of incremental on-spec LNG or otherwise), except the Expansion Facility Dock if it has not yet achieved RFSU at such time.

(i) In order for Owner to schedule the procurement of electricity to be provided by Owner in accordance with Section 4.8B, Contractor shall provide Owner with written notice at least ninety (90) Days prior to the scheduled date for achievement of RFSU of the Train 1 Expansion (as shown on the most recent Monthly Updated CPM Schedule). Within such written notice, Contractor shall provide Owner with a daily power load profile which Contractor, using GECP, anticipates for its electricity consumption between RFSU and Substantial Completion. At least forty-five (45) Days prior to the scheduled date for achievement of RFSU of the Train 1 Expansion (as shown on the most recent Monthly Updated CPM Schedule), Contractor shall provide Owner with a second written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the first forty-five (45) Day period after RFSU is achieved for the Train 1 Expansion. Every forty-five (45) Days thereafter, Contractor shall provide Owner with written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the next forty-five (45) Day period (or until Substantial Completion is achieved for the Train 1 Expansion). For purposes of clarity, and by way of example and explanation only, if Contractor's second written notice (provided 45 Days prior to the scheduled achievement of RFSU) was provided on March 1st (for a scheduled RFSU achievement on April 14th), such notice should provide an estimate for power usage from April 14th until May 28th. Then, on April 14th, Contractor shall provide Owner with written notice estimating the power usage from May 29th until July 12th. Contractor shall provide similar notices every 45 Days thereafter until it has estimated its power usage up to the scheduled date of Substantial Completion for the Train 1 Expansion. If Contractor provides the above notices in accordance with this Section 4.8B(i), Owner will procure electricity in accordance therewith; if Owner fails to provide electricity as required herein, and Contractor provided Owner with the notices required by this Section 4.8B(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the electricity). In the event Contractor's planned activities between RFSU and Substantial Completion deviate from those assumed for purposes of estimating the power loads necessary to be supplied by Owner (such that the estimated power

loads necessary for Contractor's activities change significantly in either amount, timing, or both), Contractor shall, as soon as reasonably possible, provide Owner with written notice of such deviations and provide new estimates for the power loads that have been previously estimated by Contractor.

C. ***Propane and Ethylene***. As between Owner and Contractor under this Agreement, Owner shall timely procure and pay for sufficient quantities of propane and ethylene (including any makeup propane and ethylene) for commissioning, startup and testing of the Train 1 Expansion. The propane and ethylene shall meet the specifications set forth in Attachment A. In order for Owner to schedule the supply of the quantities of propane and ethylene, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing delivery of the initial quantities of propane and ethylene for the Train 1 Expansion. Within such written notice, Contractor shall provide Owner with the quantities (itemized among the initial quantities and any makeup quantities) for both ethylene and propane which, using GECP, Contractor believes it will need in order to achieve Substantial Completion of the Train 1 Expansion. No later than ten (10) Days prior to Contractor's desired delivery date for the initial quantities of ethylene and propane, Contractor will provide a second written notice to Owner confirming or updating the quantities and delivery dates for the supply of ethylene and propane. If Contractor provides the above notices in accordance with this Section 4.8C, Owner will procure such ethylene and propane in accordance therewith; if Owner fails to provide propane or ethylene as required herein, and Contractor provided Owner with the notices required by this Section 4.8C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the propane or ethylene). Owner shall use reasonable efforts to procure ethylene and propane in amounts in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure supplies which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 1 Project Schedule or any other Changed Criteria.

D. ***LNG Evacuation Requirements***. Owner shall have the Existing Facility's LNG storage tanks operating at low heel prior to commencement of commissioning of the Train 1 Expansion. Owner shall evacuate LNG produced by the Train 1 Expansion from the LNG storage tanks in amounts necessary for Contractor to achieve Substantial Completion of the Train 1 Project (subject to Section 11.4A). Owner shall evacuate LNG from the LNG storage tanks in accordance with the notice procedure set forth in Section 11.1C. If Owner fails to provide LNG evacuation at the times and in the amounts required by Section 11.1C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to evacuate LNG from the LNG storage tanks). In addition to the LNG storage capacity available from the Existing Facility LNG storage tanks operating at low heel prior to commissioning of the Train 1 Expansion, Owner shall evacuate a minimum of 1,250,000 cubic meters of LNG from the LNG storage tanks (to the extent such amount is necessary for Contractor to achieve Substantial Completion) for the commissioning, tuning and testing of the Train 1

Expansion ("***LNG Evacuation Requirement***"). If Contractor requires additional amounts of LNG evacuated from the LNG storage tanks in order to achieve Substantial Completion, Owner shall evacuate such LNG in accordance with the requirements of Section 11.1C; *provided, however*, for each cubic meter of LNG evacuated by Owner above the LNG Evacuation Requirement, Contractor shall be liable to Owner for any actual, incremental costs to Owner (net costs after accounting for any revenues received by Owner as a result of such evacuation) not to exceed Twenty Four U.S. Dollars (U.S.$24.00) per cubic meter of LNG evacuated above the LNG Evacuation Requirement; *provided further, however*, that Contractor's aggregate liability to Owner for the foregoing incremental costs shall not exceed Twenty Million U.S. Dollars (U.S.$20,000,000) (and any such liabilities incurred by Contractor shall accrue against Contractor's aggregate liability under Section 20.1). While adhering to the LNG evacuation schedule required by Section 11.1C, Owner will use commercially reasonable efforts to avoid or minimize any net costs it incurs in providing LNG evacuation above the LNG Evacuation Requirement.

E. ***LNG Tanker Loading Requirements***. As between Owner and Contractor under this Agreement, Owner shall provide Contractor with LNG Tanker loading opportunities in order for Contractor to conduct the Ship Loading Performance Test for the Existing Facility LNG loading dock and the Expansion Facility Dock. For clarity, only one successful Ship Loading Performance Test, performed in accordance with Attachment S, is necessary for each of the LNG loading docks (*i.e.*, one successful test for the Existing Facility LNG loading dock to be modified as part of the Existing Facility Modifications and one successful test for the Expansion Facility Dock to be constructed as part of the Common Development Work). When performing the Ship Loading Performance Test for each LNG loading dock, Owner shall have, or cause to have, the LNG Tanker cold and ready to accept LNG transfer with no constraints on loading rates at or below the Ship Loading Rate MAC. Contractor shall have the right to determine which LNG Tanker loading opportunities provided by Owner will be utilized for the Ship Loading Performance Tests. Subject to Section 11.4A, Contractor will be provided with enough LNG Tanker loading opportunities for Contractor to successfully achieve the Ship Loading Performance Tests. Notwithstanding the foregoing, however, if (i) Contractor has been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Existing Facility LNG loading dock, (ii) Contractor's only barrier to achieving Substantial Completion of the Train 1 Expansion is passing the Ship Loading Performance Test for the Existing Facility LNG loading dock and (iii) Contractor is otherwise ready to perform such Ship Loading Performance Test, then Contractor's liability for Substantial Completion Delay Liquidated Damages shall not exceed thirty (30) Days of Substantial Completion Delay Liquidated Damages in the event Contractor is unable to conduct a Ship Loading Performance Test on the Existing Facility LNG loading dock due to Owner's inability to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. If the foregoing circumstances arise, once Contractor is provided with its next LNG Tanker loading opportunity (after Contractor has been provided with the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test on the Existing Facility LNG loading dock), if the Ship Loading Performance Test is unsuccessful, Contractor's

liability for Substantial Completion Delay Liquidated Damages shall re-commence but shall not exceed thirty (30) Days of additional Substantial Completion Delay Liquidated Damages if Owner is unable to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. Subject to Section 11.4A, the foregoing 30-Day limitation on Substantial Completion Delay Liquidated Damages and re-commencement of such Delay Liquidated Damages after an unsuccessful Ship Loading Performance Test shall continue until the Ship Loading Performance Test is achieved for the Existing Facility LNG loading dock. To the extent necessary for successful achievement of the Ship Loading Performance Test, Owner will use commercially reasonable efforts to provide Contractor with additional LNG Tanker loading opportunities as soon as possible after the initial ten (10) loadings have been provided.

1. In the event that (i) Contractor has not been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Existing Facility LNG loading dock, (ii) Contractor is ready to perform the Ship Loading Performance Test for the Existing Facility LNG loading dock, and (iii) such Ship Loading Performance Test is Contractor's only barrier to achieving Substantial Completion for the Train 1 Expansion, Contractor (once the Guaranteed Substantial Completion Date has arrived or if it has passed) shall be entitled to an extension to the Train 1 Project Schedule and adjustment to the Contract Price to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing the delay in providing LNG Tanker loading opportunities to Contractor) until the earlier of (1) a successful Ship Loading Performance Test is achieved or (ii) Owner provides (or causes to be provided) the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test at the Existing Facility LNG loading dock.

2. Notwithstanding anything to the contrary in Section 6.13 or elsewhere herein, Owner and Contractor agree and acknowledge that any rights to relief by Contractor arising out of or resulting from delays in providing Contractor with ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test for the Expansion Facility Dock are set forth in the Train 2 EPC Agreement, and Contractor shall not be entitled to any adjustment to the Contract Price or modification of any other Changed Criteria under this Agreement as a result therefrom; *provided that*, to the extent Contractor receives an extension under the Train 2 EPC Agreement with respect to the guaranteed substantial completion date under such Train 2 EPC Agreement arising out of or resulting from such delays in providing Contractor with ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test for the Expansion Facility Dock, Contractor shall be entitled to a Change Order under this Agreement extending the time period for achieving the Required Final Completion Date by the same number of days of the extension to the guaranteed substantial completion date under the Train 2 EPC Agreement.

ARTICLE 5
COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS

5.1 **Commencement of Work**. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence with the performance of the Work specified in such LNTP or NTP.

5.2 **Limited Notice to Proceed/Notice to Proceed**.

A. ***Limited Notices to Proceed***.

1. On the Effective Date, Owner shall issue to Contractor LNTP No. 1 in the form of Schedule H-3 ("***LNTP No. 1***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 1, subject to the payment provisions and maximum payments set forth in LNTP No. 1. The intent of LNTP No. 1 is for Contractor to perform Work that was previously on-going under the FEED Agreement for the Train 1 Expansion after execution of this Agreement, and additional Work activities, all as set forth in LNTP No. 1. All Work performed under LNTP No. 1 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 1 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 1 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 1 in Schedule C-1.

2. No later than March 15, 2014, Owner shall issue to Contractor LNTP No. 2 in the form of Schedule H-4 ("***LNTP No. 2***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 2, subject to the payment provisions and maximum payments set forth in LNTP No. 2. The intent of LNTP No. 2 is to allow Contractor to issue Subcontracts for certain critical long lead Equipment items as further set forth in LNTP No. 2. All Work performed under LNTP No. 2 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 2 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 2 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 2 in Schedule C-1. If Owner fails to issue LNTP No. 2 on or before March 15, 2014 or FLIQ2 fails to issue its second limited notice to proceed under the Train 2 EPC Agreement on or before the date set forth therein for its second limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

3. No later than May 1, 2014, Owner shall issue to Contractor LNTP No. 3 in the form of Schedule H-5 ("***LNTP No. 3***"), which shall authorize

Contractor to perform the Work specified in such LNTP No. 3, subject to the payment provisions and maximum payments set forth in LNTP No. 3. The intent of LNTP No. 3 is to allow Contractor a full release of engineering and procurement activities under the Agreement to the extent set forth in LNTP No. 3. All Work performed under LNTP No. 3 shall be performed pursuant to the terms and conditions of this Agreement and payment for Work performed under LNTP No. 3 shall be invoiced in accordance with Article 7 and the Payment Milestone Schedule based upon completion of Payment Milestones by performance of Work under LNTP No. 3 (and thereby be credited against the Contract Price); *provided that*, the maximum amount invoiced for Work performed under LNTP No. 3 cannot exceed the maximum amount set forth in LNTP No. 3 even if Payment Milestones in amounts greater than such maximum amount are completed during the performance of LNTP No. 3. If Owner fails to issue LNTP No. 3 on or before May 1, 2014, or FLIQ2 fails to issue its third limited notice to proceed under the Train 2 EPC Agreement by the date set forth therein for its third limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

4. At any time prior to the date of issuance of NTP, Owner may issue additional LNTPs in the form set forth in Schedule H-1, which shall authorize Contractor to commence performance of a specified portion of the Work; *provided that*, if issuance of such additional LNTP interferes with or delays the sequence and timing of Contractor's planned execution of the Work, then Contractor shall be entitled to a Change Order to adjust the Contract Price and Project Schedule in accordance with Section 6.9 as a result of the issuance of such additional LNTP. Each such LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Contract Price (as it may be adjusted by Change Order) and the first progress payment(s) to become due hereunder. Each LNTP shall be performed on a fixed-price basis, in accordance with the Payment Milestones defined in Attachment C, Schedule C-1 and the agreed upon payment terms, unless otherwise mutually agreed in writing by the Parties.

B. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Upon Contractor's receipt from Owner of the NTP, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-2. If Owner fails to issue NTP on or before August 1, 2014, or FLIQ2 fails to issue notice to proceed under the Train 2 EPC Agreement on or before August 1, 2014, then Contractor shall have the rights set forth in Section 5.2C.

C. ***Contract Price and Train 1 Project Schedule Validity and Delay in Issuance of LNTPs or NTP***. Subject to Section 5.2C.1 below, in order for the Contract Price and Train 1 Project Schedule to remain valid under this Agreement, Owner shall issue LNTP No. 2, LNTP No. 3 and NTP on or before the dates set forth in Sections

5.2A.2, 5.2A.3 and 5.2B, respectively, and FLIQ2 shall issue its second and third limited notices to proceed and notice to proceed under the Train 2 EPC Agreement on or before such same dates (as further set forth in Sections 5.2A.2, 5.2A.3 and 5.2B of the Train 2 EPC Agreement). If Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP, or FLIQ2 fails to issue its second or third limited notice to proceed or notice to proceed, in accordance within the dates established by the foregoing sentence, as such dates may be extended as set forth in Section 5.2C.1 below, then Contractor shall be entitled to an adjustment to the Contract Price and the Train 1 Project Schedule (including the Guaranteed Substantial Completion Date) if and to the extent the Parties' utilization of an open book estimate process substantially similar to that performed under the FEED Agreement shows, through a reevaluation of the Contract Price and Train 1 Project Schedule (including Subcontracts, labor costs, per diems, equipment and bulk material costs and delivery schedules), that issuance of LNTP No. 2, LNTP No. 3 or NTP under this Agreement, or the second or third limited notice to proceed or notice to proceed under the Train 2 Agreement, after the required dates set forth herein (as compared to on or before such dates) has resulted in increased costs chargeable to Contractor or an increased time for the performance of the Work (including 19% on such increased costs for Contractor's G&A and profit). For the avoidance of doubt, any adjustment to the Contract Price or Train 1 Project Schedule shall not be based upon a change in the scope of engineering work or the quantity of materials or equipment, or the amount of field labor or field in-directs, unless the staffing plan or Train 1 Project Schedule is materially affected by late issuance of the LNTPs or NTP described in this Section. Contractor shall use commercially reasonable efforts and GECP to mitigate the increase to the Contract Price or delay to the Train 1 Project Schedule.

1. If Contractor has not procured and delivered to Owner price and schedule offers on the CLL Equipment (as defined in LNTP No. 2) by February 15, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 2 shall extend Day-for-Day for each Day beyond February 15, 2014 that Contractor has not so procured such price and schedule offers and delivered them to Owner. In addition, if Contractor has not procured and delivered to Owner price and schedule offers (as applicable) for the remaining Provisional Sum Scope Items and Schedule Adjustment Items by April 1, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 3 shall extend Day-for-Day for each Day beyond April 1, 2014 that Contractor has not so procured the applicable price and schedule offers and delivered them to Owner.

2. In the event that Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP within the time periods required by this Agreement, or FLIQ2 fails to issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 2 EPC Agreement, and the Parties have not mutually agreed in writing to extend the applicable time periods (or they have not been extended pursuant to Section 5.2C.1), Contractor shall be entitled to an adjustment to the Contract Price and Train 1 Project Schedule as set forth in Section 5.2C above and such adjustments shall be set forth in a Change Order prior to Contractor being required to commence Work under an

NTP issued by Owner. For purposes of clarity, in the foregoing circumstances, Owner may also not require Contractor to commence the Work (other than Work already authorized under prior LNTPs or LNTPs allowed as set forth below) pursuant to a unilateral Change Order issued under this Agreement; *provided that*, notwithstanding the foregoing, Owner shall retain the right to issue additional LNTPs pursuant to Section 5.2A.4 for the limited purposes of progressing activities related to receiving an Updated Contract Price and Train 1 Project Schedule Proposal and otherwise mitigating against potential increases in the Contract Price and Train 1 Project Schedule related thereto.

3. Prior to issuance of NTP, Owner and Contractor shall meet monthly (either as part of the Monthly progress meeting under Section 3.19B or apart therefrom) to discuss the status of pending Permits, Owner's financing progress for the Expansion Facility and otherwise discuss any potential concerns related to Owner being able to achieve the LNTP and NTP time periods set forth above. If necessary, Owner shall have the right to submit a written notice to Contractor notifying Contractor that Owner may not issue LNTP No.2, LNTP No. 3 or NTP within the time periods required by this Agreement (or that FLIQ2 may not issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 2 EPC Agreement) and requiring Contractor to prepare an updated proposal for the Contract Price and Train 1 Project Schedule (the "***Updated Contract Price and Train 1 Project Schedule Proposal***") to be valid for Owner's acceptance for a period of ninety (90) Days from its issuance to Owner (or such other validity period that may be agreed upon by the Parties in writing). Such Updated Contract Price and Train 1 Project Schedule Proposal shall be performed in accordance with Section 5.2C above. In Owner's written notice to Contractor for the Updated Contract Price and Train 1 Project Schedule Proposal, Owner may request that Contractor's proposal include plans to accelerate the Work in order to maintain, to the extent practicable, the original Train 1 Project Schedule. Upon receipt of the written notice from Owner, Contractor shall promptly commence the update to the Contract Price and Train 1 Project Schedule and shall submit the Updated Contract Price and Train 1 Project Schedule Proposal as promptly as practicable, but in any event no more than sixty (60) Days after receipt of the foregoing written notice from Owner. Once received by Owner, the Updated Contract Price and Train 1 Project Schedule Proposal shall be subject to negotiation between Owner and Contractor, and if there are agreed adjustments, such adjustments shall be valid for Owner's acceptance within the validity period for the Updated Contract Price and Train 1 Project Schedule Proposal (or such other validity period that may be agreed upon in writing by the Parties). If the Parties agree on an updated Contract Price and Train 1 Project Schedule, the adjustments to the Contract Price and Train 1 Project Schedule shall be adjusted by Change Order signed by Owner and Contractor.

4. The Updated Contract Price and Train 1 Project Schedule Proposal shall be based upon a mutually agreed Work scope to continue under one or more LNTPs under this Agreement (and corresponding limited notices to proceed under the Train 2 EPC Agreement) until issuance of NTP hereunder by Owner and notice to proceed by FLIQ2 under the Train 2 EPC Agreement. If the Parties have not agreed upon an updated Contract Price and Train 1 Project Schedule, and Owner has not issued NTP under this Agreement (and FLIQ2 has not issued notice to proceed under the Train 2 EPC Agreement) within the validity period of the applicable proposal, Sections 5.2C.1 through 5.2C.3 shall apply in the event Owner requests subsequent updated proposals for the Contract Price and Train 1 Project Schedule.

5.3 **Train 1 Project Schedule**. Contractor shall perform the Work in accordance with the Train 1 Project Schedule set forth in this Section 5.3 and in Attachment E.

A. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Train 1 Expansion no later than 1,461 Days following Owner's issuance of LNTP No. 3 to Contractor ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

B. ***Required Final Completion Date***. Contractor shall achieve Final Completion no later than the guaranteed substantial completion date of the Train 2 EPC Agreement ("***Required Final Completion Date***"); *provided that*, if the Train 2 EPC Agreement is terminated prior to achieving substantial completion thereunder, the Parties shall establish the Required Final Completion Date pursuant to a Change Order in accordance with Section 6.14, *provided* such date shall be no later than thirty (30) Days after the date of the guaranteed substantial completion date of the Train 2 EPC Agreement at the time it was terminated. The Required Final Completion Date shall only be adjusted by Change Order as provided under this Agreement; *provided that*, subject to Section 6.14 and any termination of the Train 2 EPC Agreement, the Parties acknowledge that changes to the guaranteed substantial completion date of the Train 2 EPC Agreement pursuant to the terms of the Train 2 EPC Agreement shall also similarly modify the Required Final Completion Date of this Agreement.

C. ***Schedule Adjustment Items***. The Train 1 Project Schedule shall be subject to adjustment prior to, or upon, issuance of LNTP No. 2 and LNTP No. 3 for certain Schedule Adjustment Items as further set forth in Attachment DD. Any such adjustments shall be set forth by Change Order issued in accordance with Attachment DD.

5.4 **CPM Schedule**.

A. ***Baseline CPM Schedule Submissions***. Within sixty (60) Days after the Owner's issuance of the NTP, Contractor shall prepare and submit to Owner for its review and written approval a baseline critical path method schedule consisting of a resource/work-hour loaded CPM Schedule using Primavera Project Planner version 6.x or higher detailed to a discipline, craft and subsystem level based upon the Work Breakdown

Structure (upon Owner's approval, the "***Baseline CPM Schedule***"). The Baseline CPM Schedule shall, at a minimum, be detailed as a resource loaded schedule with project unit area, and discipline (as described in the Work Breakdown Structure) for activities for the Train 1 Project (including engineering, procurement, construction, pre-commissioning, commissioning, testing and startup), shall be fully integrated, shall be consistent with the Train 1 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date, and shall show an uninterrupted critical path from NTP through RFSU, RLFC, Substantial Completion and Final Completion. In addition, the Baseline CPM Schedule shall be capable of being integrated with the baseline critical path method schedule developed under the Train 2 EPC Agreement in order to produce a master baseline critical path method schedule for the combined Train 1 Project and Train 2 Project. With respect to each activity in the Baseline CPM Schedule, the Baseline CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value and projected work-hours as well as identify the Work interfaces for other parties' activities (including Owner, Owner's other contractors, and utility companies), which shall be sorted by the Work Breakdown Structure and scheduled start or another format agreed upon by Owner. The Baseline CPM Schedule shall represent Contractor's judgment, using GECP, as to how it shall complete the Work in compliance with the Train 1 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date. The Baseline CPM Schedule shall be submitted in electronic format, created by Primavera Project Planner software back-up utility and including all Primavera Project Planner network data. Contractor shall submit with the Baseline CPM Schedule the following: (a) Primavera based listing of "predecessor/successor" in tabular format showing activities in the Baseline CPM Schedule, their predecessor activities and relationships and their successor activities and relationships; (b) progress "S" curve, showing the baseline plan, actual and forecast progress by Month for total progress of the Work, which shall be based on the Baseline CPM Schedule; (c) engineering discipline and overall engineering and construction manpower histograms showing forecast manpower required by Month, for scheduled completion of the Work; (d) Drawing log showing the Drawing number, title, planned, actual and forecast issue for construction ("***IFC***") release dates by discipline and reporting period; and (e) procurement log showing the Equipment Subcontract order number, description, forecast and actual bid release dates, Equipment Subcontract order release dates, required-at-Site dates and delivery dates.

B. ***Monthly Updated CPM Schedules.*** After approval by Owner of the Baseline CPM Schedule described in Section 5.4A, Contractor shall manage and update (no less frequently than once every month), using GECP, a critical path method schedule for the Work with Primavera Project Planner (each such updated schedule being a "***Monthly Updated CPM Schedule***") showing the actual, up-to-date progress of the Work and forecasted Work activities. The Monthly Updated CPM Schedule shall not modify the Baseline CPM Schedule or the Train 1 Project Schedule (including the Guaranteed Substantial Completion Date or the Required Final Completion Date), nor shall it change any dates that relate to Owner's obligations or Work interfaces under the Agreement. Each Monthly Updated CPM Schedule shall meet the requirements of Section 5.4 and Attachment X, and in addition shall (i) at a minimum be prepared with the same level of detail as the Baseline CPM Schedule, (ii) show the Baseline CPM Schedule, (iii) for each

activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity and forecasted completion date for each such activity, (v) for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of RFSU, RLFC, Substantial Completion and Final Completion, and (vii) update the Monthly Updated CPM Schedule with all other information shown in the Baseline CPM Schedule, reflecting the Work as actually performed or as forecasted. In addition, the Monthly Updated CPM Schedule shall be capable of being integrated with the monthly updated critical path method schedule developed and updated under the Train 2 EPC Agreement in order to produce a master monthly updated critical path method schedule for the combined Train 1 Project and Train 2 Project. The Monthly Updated CPM Schedule shall be submitted to Owner in the same detail and form as required by the Baseline CPM Schedule. If Contractor changes the schedule logic, any durations or resource-loading with respect to any activity in its Monthly Updated CPM Schedule such that it deviates from the Baseline CPM Schedule, Contractor shall provide Owner with a written explanation of each such change along with the Monthly Updated CPM Schedule (but the Baseline CPM Schedule shall not be changed). Contractor shall promptly correct any errors or inconsistencies in the updates to the Monthly Updated CPM Schedule identified to Contractor by Owner and shall re-submit a corrected Monthly Updated CPM Schedule to Owner for review.

C. ***Review, Comments and Approvals of CPM Schedules***.

1. In addition to the approval of the Baseline CPM Schedule described in Section 5.4A, Owner shall review and approve any proposed adjustments to the Baseline CPM Schedule. The Baseline CPM Schedule shall not be adjusted except by Change Order.

2. No more than once every three (3) Months, Owner shall have the right to review, analyze and comment on the Monthly Updated CPM Schedule. As a component of the process for Owner's review of the Monthly Updated CPM Schedule pursuant to this Section 5.4C.2, Owner and Contractor shall conduct a schedule workshop with the Monthly Updated CPM Schedule and conduct a detailed schedule analysis on the CPM Schedule with third party software applications (selected and provided by Owner, at its cost) capable of performing forensic, metric and logic analysis on the CPM Schedule (such as Acumen Fuse™ or P6 Project Integrity Checker). A mutually agreed upon set of parameters and thresholds shall be set forth in writing and used by Contractor and Owner for this review. Based upon the schedule analysis (including the use of the third party software applications) and the agreed upon schedule parameters and thresholds, schedule corrections and/or optimizations shall be generated. All such correction and/or optimizations shall be mutually resolved by Contractor and Owner.

3. Any review, comment or approval by Owner of the Baseline CPM Schedule, any adjustments to the Baseline CPM Schedule or any Monthly Updated CPM Schedule shall not relieve Contractor of any obligations for the

performance of the Work, nor shall it be construed to establish the reasonableness of the Baseline CPM Schedule or any Monthly Updated CPM Schedule. In addition, any review, comment or approval by Owner of any Monthly Updated CPM Schedule is for purposes of verifying Contractor's development of Monthly Updated CPM Schedules meeting the requirements of Section 5.4 and shall not, under any circumstances, change the Train 1 Project Schedule (including the Guaranteed Substantial Completion Date), alter the timing of any of Owner's obligations or Work interfaces identified in the Baseline CPM Schedule or otherwise modify any other aspect of the Baseline CPM Schedule. Owner shall be entitled to reasonably rely upon the Baseline CPM Schedule and any Monthly Updated CPM Schedules, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to plan, organize, direct, coordinate, perform, execute and complete each portion of the Work within the times set forth in the Train 1 Project Schedule.

D. ***30 Day Look-ahead Schedule***. No later than the tenth (10^{th}) Day of each Month, Contractor shall submit to Owner a 30 Day look-ahead schedule ("***30 Day Look-ahead Schedule***"), which shall be based on the Monthly Updated CPM Schedule showing in detail the activities to be performed during the next thirty (30) Days, including target, forecast and actual dates for each activity, shall be detailed into project unit area and discipline, and shall meet all other requirements of updates to the Monthly Updated CPM Schedule as described in Section 5.4C.

E. ***Form of Submittals; Access to Native Files***. Submittals of the Baseline CPM Schedule (as may be adjusted from time to time via Change Order) and the Monthly Updated CPM Schedules by Contractor to Owner shall be in both native electronic and paper format. Native electronic submissions of the Baseline CPM Schedule and the Monthly Updated CPM Schedules shall be provided via password-protected document control system access and may be downloaded from the secure system by Owner personnel having password authorization. Four (4) hard copies of each submittal shall be provided to Owner, and one (1) electronic copy shall be provided to Owner. Owner acknowledges that the native electronic files of the Baseline CPM Schedule and the Monthly Updated CPM Schedules include Contractor's Confidential Information of an extremely sensitive nature that is governed by the terms of this Agreement's confidentiality provisions. In addition to its confidentiality obligations hereunder, Owner shall regulate the distribution of, and access to, the native electronic files provided by Contractor on a need-to-know basis (including among its own employees and its Affiliates and Affiliates' employees) and shall only distribute such native electronic files to the extent necessary for the exercise of Owner's rights and obligations under this Agreement or as required by its Lenders. Such native electronic files shall be protected in the same manner, and under the same policies and procedures, that Owner protects Owner's Confidential Information, which such policies and procedures shall be of a level at least equal to industry standards for protection of like information.

F. ***Failure to Submit CPM Schedule***. In the event Contractor fails to provide the schedules in accordance with Sections 5.4 and 5.6, Owner shall have the right to withhold payment of Invoices due until compliance with Sections 5.4 and 5.6 is achieved.

5.5 **Recovery and Recovery Schedule**. If, at any time during the prosecution of the Work, (i) should the Monthly Updated CPM Schedule or Monthly Progress Report show that any activity on the critical path of the applicable CPM Schedule is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date (as such Guaranteed Substantial Completion Date or Required Final Completion Date may be adjusted by Change Order executed by the Parties), or should Contractor fail to provide a Monthly Updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on the critical path is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date, or should Contractor fail to achieve any Schedule Milestone within thirty (30) Days after the date specified for such Schedule Milestone (as such Schedule Milestones may be adjusted by Change Order executed by the Parties) and (ii) Contractor or any of its Subcontractors or Sub-subcontractors are in Owner's reasonable judgment responsible for such delay, Owner may, in addition to any other remedies that it may have under this Agreement, require that Contractor prepare a schedule to explain and display how it intends to regain compliance with the Baseline CPM Schedule during the immediate subsequent pay period or other period selected by Owner ("***Recovery Schedule***"). Contractor shall do the following after written notification by Owner of the requirement for a Recovery Schedule:

A. Within ten (10) Business Days after such written notification, Contractor shall prepare the Recovery Schedule and submit it to Owner for its review. Contractor shall prepare the Recovery Schedule even if Contractor disputes Owner's determination of the need for a Recovery Schedule. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline CPM Schedule. The Recovery Schedule shall be prepared in accordance with GECP and to a similar level of detail as the Baseline CPM Schedule, and shall have (unless otherwise specified in writing by Owner) a maximum duration of sixty (60) Days unless otherwise mutually agreed.

B. Within ten (10) Business Days after Contractor submits a Recovery Schedule, Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for review by Owner within three (3) Days after the conference. The revised Recovery Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of Subcontractors and Sub-subcontractors) for the duration specified in Section 5.5A, to regain compliance with the Baseline CPM Schedule.

C. Contractor shall perform the Work in accordance with the Recovery Schedule.

D. Five (5) Days prior to the expiration of the Recovery Schedule, Contractor shall meet with Owner at the Site to determine the effectiveness of the Recovery Schedule and to determine whether Contractor has regained compliance with the Baseline CPM Schedule. At the direction of Owner, one of the following shall happen:

1. If, in the opinion of Owner, Contractor is still behind schedule, Contractor shall be required to prepare another Recovery Schedule pursuant to Section 5.5A above, to take effect during the immediate subsequent pay period or other period selected in writing by Owner. Contractor shall prepare such Recovery Schedule even if Contractor disputes Owner's opinion.

2. If, in the opinion of Owner, Contractor has sufficiently regained compliance with the Baseline CPM Schedule, Contractor shall return to the use of the Baseline CPM Schedule.

E. In preparing and executing the Recovery Schedule, Contractor shall take all steps necessary to regain compliance with the Baseline CPM Schedule, including establishing additional shifts, hiring additional manpower, paying or authorizing overtime, providing additional equipment, and resequencing activities.

F. The cost of preparing the Recovery Schedule, and performing in accordance therewith, shall be for Contractor's account.

G. Owner's requirement, review and approval of the Recovery Schedule, or its decision not to request a Recovery Schedule, shall not relieve Contractor of any obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Required Final Completion Date, or be construed to establish the reasonableness of the Recovery Schedule.

H. Failure of Contractor to comply with its obligation to provide a Recovery Schedule in accordance with this Section 5.5, after Owner provides Contractor with fifteen (15) Days prior written notice, shall be a Default.

5.6 **Acceleration and Acceleration Schedule**. Even if the Work is otherwise in compliance with the Baseline CPM Schedule, Owner may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, providing additional construction equipment or expediting Equipment; *provided, however*, (i) in no event shall Owner unilaterally order acceleration of the Work requiring Contractor to achieve Substantial Completion or Final Completion prior to the respective, original Guaranteed Substantial Completion Date or Required Final Completion Date and (ii) unless the Parties mutually agree by Change Order to adjustments to the Train 1 Project Schedule as a result of the acceleration, Contractor's obligation with respect to an acceleration directive from Owner shall be limited to using commercially reasonable efforts to accelerate the Train 1 Project Schedule. In the event of this directive, Owner's sole liability shall be to pay to Contractor any documented costs clearly and solely attributable to such acceleration. Such costs may include any incremental overhead or administrative costs, shift differential, premium, margin on incremental costs, increased costs

resulting from any inefficiencies realized as a result of such acceleration, costs to expedite, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work (including additional indirect staff) on a full-time basis actually incurred over and above Contractor's normal rates, and overtime charges for equipment. Any adjustment to the Contract Price or any other Changed Criteria that the Parties agree in writing will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order. If Owner directs Contractor in writing to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by Owner, and shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Baseline CPM Schedule (the "***Acceleration Schedule***"). With respect to the Acceleration Schedule, Contractor shall do the following:

A. No later than the tenth (10^{th}) Business Day after such directive or such longer time as may be mutually agreed in writing by the Parties, Contractor shall prepare the Acceleration Schedule and submit it to Owner for its review. The Acceleration Schedule shall represent Contractor's best judgment as to how it shall satisfy Owner's acceleration directive. The Acceleration Schedule shall be prepared using GECP and to a similar level of detail as the Baseline CPM Schedule.

B. On the tenth (10^{th}) Business Day after such directive (or such longer time as may be mutually agreed in writing by the Parties), Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Acceleration Schedule. Any revisions to the Acceleration Schedule necessary as a result of this review shall be resubmitted for review by Owner no later than the tenth (10th) Day after such meeting or such other date as may be agreed in writing by the Parties. The revised Acceleration Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing that portion of the Work that is affected by such acceleration, with the Baseline CPM Schedule governing the performance of all other Work.

C. Owner's review and approval of the Acceleration Schedule shall not constitute an independent evaluation or determination by Owner of the workability, feasibility, or reasonableness of that schedule.

ARTICLE 6
CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 **Change Orders Requested by Owner**. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

A. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within five (5) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Contract Price, the Train 1 Project Schedule, the Design Basis, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees, or any

other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). With Contractor's response, Contractor shall provide a written statement to Owner that sets forth the effects, if any, that the proposed Change Order would have on the contract price, project schedule or other obligation or liability of Contractor under the Train 2 EPC Agreement, and Contractor shall provide a copy of such notice to FLIQ2 pursuant to the Train 2 EPC Agreement. If it is not possible for Contractor to provide all of the information required under this Section 6.1A to be submitted with such written statement within such five (5) Business Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such five (5) Business Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed Change Order from Owner. The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.6B.

1. In the event that Owner requests Contractor to prepare a response to a proposed Change Order pursuant to Section 6.1A, and Contractor believes that the incremental cost to be incurred by Contractor in order to prepare such response will exceed Eight Thousand U.S. Dollars (U.S.$8,000), then Contractor shall give Owner written notice within five (5) Business Days after receipt of Owner's request, and prior to incurring costs with respect to such response, identifying such threshold may be exceeded and providing Owner with an estimate of the incremental cost to prepare such response to the proposed Change Order. Owner shall then have the right to request Contractor to proceed with the response or not. If Owner requests Contractor to proceed and Owner ultimately decides not to enter into a Change Order based upon this response, then Owner's payment responsibility shall be for Contractor's incremental costs above the foregoing threshold amount incurred in providing the response to the proposed Change Order (but not to exceed Contractor's estimated cost for the Change Order response unless prior approval is given by Owner in writing).

B. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement; *provided that*, even if the Parties agree upon the Changed Criteria, if Contractor has timely notified Owner pursuant to Section 6.1A above that the proposed Change Order would affect Contractor's obligations or liabilities under the Train 2 EPC Agreement, then Owner and Contractor may not execute the contemplated Change Order unless and until either (i) the proposed Change Order is modified such that no obligations or liabilities of Contractor under the Train 2 EPC Agreement are affected or (ii) FLIQ2 ratifies the proposed Change Order by executing a corresponding change order pursuant to the Train 2 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 2 EPC Agreement that result from the Change Order contemplated under this Agreement.

C. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1A, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order on a time and materials basis using the rates as set forth in Schedule D-4, or if not specified therein, at rates not to exceed then-current market rates with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible. If the Parties cannot agree on the effect of such unilateral Change Order within ninety (90) Days after Substantial Completion, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) and shall diligently perform the changed Work or other obligations required in such unilateral Change Order.

1. Notwithstanding anything to the contrary in Section 6.1C or 6.2D, Owner shall not have the right to issue a unilateral Change Order pursuant to such Section 6.1C or 6.2D if Contractor has notified Owner pursuant to Section 6.1A that the proposed Change Order will affect Contractor's obligations or liabilities under the Train 2 EPC Agreement unless and until (i) the unilateral Change Order is modified such that no obligations or liabilities of Contractor under the Train 2 EPC Agreement are affected or (ii) FLIQ2 ratifies the proposed Change Order by executing a corresponding unilateral change Order pursuant to the Train 2 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 2 EPC Agreement that result from the unilateral Change Order issued under this Agreement.

6.2 **Change Orders Requested by Contractor**.

A. Contractor shall only have the right to request a Change Order in the event of any of the following occurrences:

1. Acts or omissions of Owner, or of any Owner Indemnified Parties or any other Person acting on behalf of or under the control of Owner, that

constitute a breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to delays (as that term is defined Section 6.10) caused by any Owner Indemnified Parties or any Person acting on behalf or under the control of Owner, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9;

2. Force Majeure to the extent allowed under Section 6.8A;

3. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued;

4. To the extent Contractor has complied with Section 3.17, discovery of pre-existing Hazardous Materials at the Site that adversely affect Contractor's cost (which costs shall be adequately documented and supported by Contractor) of the performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such discovery of pre-existing Hazardous Materials, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9;

5. To the extent expressly permitted under Section 2.5B.2, 2.5B.3, 3.3C.5, 3.24A, 4.8A(i), 4.8B(i), 4.8C, 4.8D, 4.8E.1, 4.8E.2, 5.2C, 6.15, 7.10B, 8.2A.3, 8.2A.4, 11.1D.2, 12.2A, 16.6, 21.22D, or 21.22E, or Section 4.13.8, 14.2, 14.6 or 14.22 of Schedule A-1, Section 6.1 of Schedule A-2, Section 5.1 of Schedule A-3, or Section 1.P or 2.D of Attachment O;

6. Purchase of operating spare parts in accordance with Section 3.4C;

7. Suspension in Work ordered by Owner pursuant to Section 16.3 or a suspension in Work allowed to Contractor pursuant to Section 16.4;

8. Changes in Law that materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such Changes in Law, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9; or

9. To the extent expressly permitted under Attachment DD.

B. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.6, notify Owner in writing and issue to Owner, at Contractor's expense, a request for a proposed Change Order in the form attached hereto as Schedule D-3, a detailed explanation of the proposed change and Contractor's reasons

for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.6. Any adjustments to the Contract Price shall be requested on a fixed price separated basis according to Article 7 (or such other pricing basis as the Parties may mutually agree in writing) and shall be derived from the rates set forth in Schedule D-4 to the extent applicable or, if not stated therein, derived from rates not to exceed then-current market rates.

C. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

D. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1C are applicable.

E. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, as modified by any previously agreed Change Orders, and with the terms of any unilateral Change Orders.

6.3 **Change Orders Requested by FLIQ2 Under the Train 2 EPC Agreement**. Contractor shall provide Owner with written notice as to whether any change orders proposed by FLIQ2 under the Train 2 EPC Agreement will affect Contractor's obligations or liabilities under this Agreement. Such notice shall be provided by Contractor within five (5) Business Days after Contractor's receipt of the proposed change order from FLIQ2, *provided that*, if it is not possible for Contractor, using GECP, to determine whether the proposed change order will affect Contractor's obligations or liabilities under this Agreement within such five (5) Business Day period, Contractor shall provide Owner with written notice of the potential of such an impact within such 5-Business Day period along with as a written explanation of the reason that additional time is required. Contractor shall then exercise reasonable diligence to provide information on the effects to Contractor's obligations or liabilities under this Agreement as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed change order from FLIQ2. Upon receipt of such written notice, Owner shall promptly coordinate with FLIQ2 and Contractor to discuss the impacts to Contractor's obligations and responsibilities under this Agreement and the Expansion Facility overall. Thereafter, Owner will respond to Contractor by either (i) ratifying FLIQ2's proposed change order (as such proposal may be modified as a result of the discussions between Contractor, Owner and FLIQ2) by executing a corresponding Change Order (whether mutual or unilateral) pursuant to this

Agreement or (ii) rejecting the effects of FLIQ2's proposed action on the Train 1 Project. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 6.3 that a FLIQ2 proposed change order will affect the liabilities and obligations of Contractor under this Agreement, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement resulting from a change order proposed and/or implemented by FLIQ2 under the Train 2 EPC Agreement.

6.4 **Contract Price Adjustment; Contractor Documentation**. If a Change Order is executed on a time and materials basis pursuant to Section 6.1C or 6.2D, then interim payments shall be made to Contractor in accordance with the terms of Section 6.1C for such unilateral Change Order Work; *provided that* the Contract Price shall not be adjusted unless and until the a mutual Change Order is executed by the Parties that supersedes the unilateral Change Order (and such mutual Change Order adjusts the Contract Price) or the dispute underlying the unilateral Change Order is resolved in accordance with Article 18 requiring an adjustment to the Contract Price. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets, invoices and receipts. With respect to all unilateral and mutual Change Orders, as well as any requests for Change Orders by Contractor pursuant to Section 6.2, Contractor shall maintain and present all applicable Books and Records and other documentation related to such actual or requested Change Orders in a manner that would allow such documentation (including cost and schedule-related information) to be segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

6.5 **Change Orders Act as Accord and Satisfaction**. Change Orders agreed pursuant to Section 6.1B or 6.2C by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1C or 6.2D on a time and materials basis and which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a superseding and mutually agreed upon Change Order as provided in Section 6.1B or 6.2C, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for all direct and indirect impacts of such change. Accordingly, unless otherwise expressly and conspicuously stated in such Change Order, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work); *provided, however*, Contractor may only expressly reserve its right under a Change Order to make such claim or demand or take any such action or proceeding against Owner if

Contractor is not able in good faith to determine, using GECP, all of the effects of the change at the time of executing such Change Order and, *provided further*, subject to Section 6.5A, that if Contractor so expressly reserves its rights in accordance with this Section 6.5, Contractor shall make such claim or demand or take any such action or proceeding against Owner within a reasonable time but in no event later than three (3) months after the date of such Change Order (unless the Parties mutually agree to extend such time period in writing), and if Contractor fails to bring such claim or demand within such three (3) month period (or such longer time period as the Parties mutually agree in writing), Contractor is deemed to have forever waived and released such claim or demand.

A. The foregoing three (3) month time period set forth in Section 6.5 for Contractor bringing forth to Owner a previously reserved claim or demand shall not apply for Change Orders requested under Sections 6.2A.2, 6.2A.3, 6.2A.8, 8.2A.3, or 8.2A.4 and, in such circumstances, Contractor shall bring such previously reserved claim or demand as soon as reasonably possible using GECP but no later than prior to Substantial Completion.

6.6 **Timing Requirements for Notifications and Change Order Requests by Contractor**. Should Contractor desire to seek an adjustment to the Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Milestone Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

A. notify Owner in writing of the existence of such circumstance within twenty (20) Days after the date that Contractor's Key Personnel knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* if such circumstance is an emergency, oral notice shall be given immediately, followed with written notice within three (3) Days after the date such oral notice is provided. In such notice (written or oral), Contractor shall state in detail all known and presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the good faith estimate of cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the applicable CPM Schedule), any other details or information that are expressly required under this Agreement and any information and documents relevant to such claim or circumstance. Contractor shall only be required to comply with the notice requirements of this Section 6.6A once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

B. submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner written notice but in no event later than seven (7) Days after the completion of each such circumstance, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all

documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Schedule D-4, detailed estimates and cost records, daily time sheets and a graphic demonstration using the applicable CPM Schedule, showing Contractor's entitlement to a time extension to the Train 1 Project Schedule pursuant to the terms of this Agreement, which shall be provided in hard copy and in native electronic format in accordance with Section 5.4E); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria. If it is not possible for Contractor to provide all of the information required under this Section 6.6B to be submitted with such proposed Change Order within such seven (7) Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such seven (7) Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's submission of such proposed Change Order.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.6, and agree that such requirements are an express condition precedent necessary to any right for an adjustment in Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement.

6.7 **Adjustment Only Through Change Order**. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or Required Final Completion Date, Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6. Contractor shall not perform any change in the Work unless and until such change is authorized pursuant to this Article 6, and should Contractor perform or claim to perform any changes in the Work prior to authorization by Change Order, all such costs and expenses incurred by Contractor shall be for Contractor's account. No course of conduct or dealings between the Parties, nor express or implied acceptance of additions, deletions, suspensions or modifications to this Agreement, including any Work, and no claim that Owner has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim for an adjustment in the Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, the Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor under this Agreement.

6.8 **Force Majeure**.

A. ***Contractor Relief***.

1. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an extension to the Guaranteed Substantial Completion Date or the Required Final Completion Date if such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11. Subject to Section 6.8A.2, the Parties agree that Contractor's sole remedy for such delay shall be an adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date, as applicable, pursuant to a Change Order. Any adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date shall be recorded in a Change Order.

2. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an adjustment to the Contract Price as provided in (a) or (b) below if Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11 and meets the requirements of either (a) or (b) below. Any adjustment to the Contract Price shall be recorded in a Change Order.

(a) With respect to any one or more hurricanes or named tropical storms in (or forecasted by the National Weather Service to make landfall in) the Texas Gulf Coast region that constitute a Force Majeure event, Contractor shall be entitled to an adjustment to the Contract Price for reasonable incremental costs (including for field indirect personnel and field overhead) necessarily incurred by Contractor (i) to prepare the Work on the Site to safely weather such hurricane or named tropical storm, (ii) during demobilization of Contractor's personnel and applicable construction equipment from the Site to a safe off-Site location prior to the Force Majeure and (iii) during remobilization of Contractor's personnel and applicable construction equipment from the off-Site location to the Site after the Force Majeure; *provided that* Contractor shall bear at its own expense the first Three Hundred Seventy-Five Thousand U.S. Dollars (US$375,000) of such costs with respect to any one hurricane or named tropical storm, *provided further that* the aggregate amount which Contractor shall be required to bear with respect to the above costs is One Million U.S. Dollars (US$1,000,000).

(b) In the event that any one or more Qualified Force Majeure Events, in the aggregate, cause Contractor to achieve Substantial

Completion more than thirty (30) Days after the Guaranteed Substantial Completion Date, Contractor shall be entitled to an adjustment to the Contract Price for reasonable costs necessarily incurred by Contractor for further delay occurring after the expiration of such thirty (30) Day aggregate period as a result of Qualified Force Majeure Events. A "***Qualified Force Majeure Event***" is a single Force Majeure event that otherwise meets the requirements of Section 6.8A.1 and causes Contractor to achieve the Substantial Completion five (5) or more Days after the Guaranteed Substantial Completion Date.

B. ***Owner Relief***. Subject to Section 6.8C, Owner's obligations under this Agreement shall be suspended to the extent that performance of such obligations is delayed by Force Majeure.

C. ***Payment Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement shall be excused by reason of Force Majeure.

6.9 **Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law**. Should (i) Owner, or any Owner Indemnified Party or any other Person acting on behalf or under the control of Owner, subject to Section 21.22, delay the commencement, prosecution or completion of the Work, and to the extent such delay is not attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement or such delay is caused by Owner's ordering a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1), or (ii) the commencement, prosecution or completion of the Work be delayed as a result of (1) subsurface conditions for which Contractor is entitled to adjustments to the Contract Price and/or Train 1 Project Schedule, as applicable, under Section 2.5B.2, (2) Contractor's discovery of pre-existing Hazardous Materials on the Site for which Contractor is entitled to relief under Section 6.2A.4, (3) Changes in Law for which Contractor is entitled to relief under Section 6.2A.8, (4) Owner's interference with the Work for which Contractor is entitled to relief under Section 3.24A, (5) Owner's failure to provide natural gas feed in the amounts and at the times required by Section 4.8A(i) (unless due to Force Majeure), (6) Owner's failure to provide electricity in the amounts and at the times required by Section 4.8B(i) (unless due to Force Majeure), (7) Owner's failure to provide propane or ethylene in the amounts and at the times required by Section 4.8C (unless due to Force Majeure), (8) Owner's failure to provide LNG evacuation in accordance with Section 4.8D and 11.1C (unless due to Force Majeure) for which Contractor is entitled to relief under Section 4.8D, (9) Owner's failure to provide LNG Tanker loading opportunities as further set forth in Section 4.8E.1 (unless due to Force Majeure) for which Contractor is entitled to relief under such Section 4.8E.1, (10) Owner's failure to deliver the RLFC LNG Tanker for which Contractor is entitled to relief under Section 11.1D.2 or (11) a suspension of the Work for which Contractor is entitled to relief under Section 6.2A.7, then Contractor shall, with respect to any of the above, be entitled to request a Change Order for an adjustment in the Contract Price and an extension to the Train 1 Project Schedule if (w) such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule, (x) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, (y) Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the

Guaranteed Substantial Completion Date or the Required Final Completion Date and (z) Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements of Section 6.11. Any adjustment to the Contract Price shall be for reasonable, additional costs incurred by Contractor for such delay meeting the requirements of this Section 6.9, and any adjustments to the Contract Price or the Guaranteed Substantial Completion Date or Required Final Completion Date shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.9, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.9 shall be included in the Change Order incorporating such change in the Scope of Work.

6.10 **Delay**.

A. For the purposes of Sections 6.2A.1, 6.8 and 6.9, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

B. For the avoidance of doubt, the Parties recognize and agree that for the purposes of Section 6.8 and 6.9, a Work activity not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, Contractor is entitled to an extension to the Train 1 Project Schedule for those days of delay after which the non-critical path activity became a critical path activity, *provided that* such delay satisfies the other requirements under applicable Sections 6.8 and 6.9, including that such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date.

6.11 **Contractor Obligation to Mitigate Delay**. With respect to Sections 6.8 and 6.9, in no event shall Contractor be entitled to any adjustment to the Train 1 Project Schedule or adjustment to the Contract Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

6.12 **Separated Contract Price Adjustments in Change Orders**. Any adjustment by Change Order to the Contract Price which is made on a fixed price separated basis shall be separated pursuant to 34 Tex. Admin. Code Rule § 3.291(a)(13) to specify the applicable adjustments to the Tax Exempt Equipment Price, Taxable Equipment Price and Labor and Skills Price in accordance with Article 7. In addition, any such adjustment by Change Order to the Contract Price shall identify which component of the Contract Price that such adjustment is attributable to by adjusting the Common Contract Price Component and Train 1-Specific Contract Price Component as applicable. Change Orders shall also maintain an accounting of adjustments to the Common Development Work Compensation.

6.13 **Change Orders Affecting Common Development Work or the Common Development Work Compensation**. Notwithstanding anything to the contrary in this Article 6, no unilateral Change Order issued by Owner or mutual Change Order executed by the Parties, which relates to, impacts or modifies the Common Development Work (or any Changed Criteria

relating to the Common Development Work) or the Common Development Work Compensation, shall be effective without FLIQ2 providing written approval of such unilateral or mutual Change Order; *provided that*, FLIQ2's approval requirement of any such Change Order (i) may be expressly waived in writing by FLIQ2 or (ii) is not applicable if either (1) Contractor has the right to suspend or has suspended the Common Development Work pursuant to the Train 2 EPC Agreement due to FLIQ2's failure to pay undisputed amounts owed thereunder, (2) the Train 2 EPC Agreement has been terminated or (3) Owner is exercising its rights under Section 6.14 below. Approval by FLIQ2 of the unilateral or mutual Change Order may come in the form of FLIQ2 executing a substantially identical unilateral or mutual change order under the Train 2 EPC Agreement. In addition, unless Owner and FLIQ2 agree otherwise in writing, any mutual Change Order under this Agreement and mutual change order executed under the Train 2 EPC Agreement in accordance with the foregoing which adjusts the Common Development Work Compensation shall have such adjustment split equally between Owner and FLIQ2, and the Contract Price and Common Contract Price Component hereunder shall be adjusted accordingly in such Change Order to account for such change in the Common Development Work Compensation; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) pursuant to Section 6.14, then the adjustment to the Common Development Work Compensation shall be fully borne by Owner under this Agreement (and the Common Contract Price Component shall be adjusted accordingly). Further, unless Owner and FLIQ2 agree otherwise in writing, any unilateral Change Order executed in accordance with the foregoing which relates to, impacts or modifies the Common Development Work shall have the cost of such unilateral Change Order split equally between Owner under this Agreement and FLIQ2 under the Train 2 EPC Agreement; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) pursuant to Section 6.14, then Owner shall be fully responsible for the costs of such unilateral Change Order.

6.14 **Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement**. In the event Contractor, pursuant to Section 16.4 of the Train 2 EPC Agreement, submits a written notice to FLIQ2 for FLIQ2 to cure its failure to pay undisputed amounts due and owing under the Train 2 EPC Agreement, Contractor shall, simultaneously with its submission of the foregoing notice to FLIQ2, notify Owner in writing of the FLIQ2 notice. In addition, in the event Contractor receives a notice of termination from FLIQ2 of the Train 2 EPC Agreement (or termination of any Common Development Work thereunder) pursuant to Section 16.2 of the Train 2 EPC Agreement, or the Train 2 EPC Agreement is otherwise terminated by notice pursuant to its terms, Contractor shall, within five (5) Business Days, notify Owner in writing of such termination notice. Upon Owner's receipt of any of the foregoing written notices from Contractor, Owner shall have one hundred twenty (120) Days (or such other period of time as the Parties may agree upon in writing) to inform Contractor in writing whether Owner desires to assume the payment obligations, otherwise payable by FLIQ2 (assuming no termination of the Train 2 EPC Agreement), which are necessary to have the Common Development Work (that was being compensated under the Train 2 EPC Agreement) continue to be performed by Contractor; *provided that*, during such time period prior to Owner's response, Contractor shall have the right to suspend the Common Development Work to the extent allowed under the Train 2 EPC Agreement. In the event Owner elects to assume FLIQ2's payment obligations for the Common Development Work under this Agreement, Owner shall notify Contractor of such election in writing and submit with (or

promptly after) such notice a request for a Change Order in accordance with Section 6.1 identifying what portion of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) that Owner desires Contractor to continue to perform under this Agreement, less any other portions of the Common Development Work Owner desires that Contractor not continue to perform. Thereafter, Owner and Contractor shall proceed in accordance with Section 6.1 with a view towards executing a mutual Change Order that establishes an adjustment to the Train 1 Project Schedule and Common Contract Price Component reflective of the scope of the Common Development Work that Owner desires Contractor to complete under this Agreement; *provided that*, in the essence of time (and to mitigate or avoid additional costs or delays associated with a suspension in the Common Development Work), Owner may issue a unilateral Change Order to Contractor so that the Common Development Work (that was being compensated under the Train 2 EPC Agreement) may continue without any suspension or so that any then-suspended Common Development Work resumes. If Contractor has not suspended the performance of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) in accordance with the Train 2 EPC Agreement and Owner elects to have any such Common Development Work performed under this Agreement pursuant to this Section 6.14, then Contractor shall not be entitled to any adjustment to the Train 1 Project Schedule. If Contractor has suspended the performance of the Common Development Work in accordance with the Train 2 EPC Agreement and Owner elects to have the Common Development Work (that was being compensated under the Train 2 EPC Agreement) performed under this Agreement pursuant to this Section 6.14, then (in addition to any adjustment to the Common Contract Price Component as a result of having such Common Development Work continue to be performed under this Agreement) Contractor shall be entitled to an adjustment to the Train 1 Project Schedule and Common Contract Price Component to the extent allowed under Section 6.9 herein as a result of such suspension of such Common Development Work. For purposes of clarity, the Parties acknowledge that if Owner does not desire to reduce the scope of the Common Development Work, then the adjustment to the Common Contract Price Component under the Change Order shall not exceed FLIQ2's unpaid share of the Common Development Work Compensation (except to the extent the Common Contract Price Component may be adjusted as a result of an adjustment to the Train 1 Project Schedule pursuant to the foregoing sentence). In the event that Owner elects to reduce the scope of the Common Development Work, Contractor shall use its best efforts to assist Owner in evaluating the effects of such reduced scope on the costs to perform the Work (including with respect to any change in quantities of materials or Equipment and the amount of labor, engineering or field in-directs) as well as the Baseline CPM Schedule, so that Owner can minimize the cost impact in assuming FLIQ2's payment obligations of performing the Common Development Work and shorten the Train 1 Project Schedule to reflect the decreased scope of the Common Development Work.

A. ***Elimination of Expansion Facility Dock from Common Development Work***. The Parties acknowledge that, in the event Owner desires to have the Common Development Work (that was being compensated under the Train 2 EPC Agreement) executed under this Agreement pursuant to Section 6.14, Owner, in its sole discretion, may wish to remove the Expansion Facility Dock from the scope of the Common Development Work (as part of its right to modify the scope of the Common Development Work pursuant to Section 6.14). In the event Owner so desires to remove the Expansion Facility Dock from the scope of the Common Development Work, the Parties

acknowledge that the reduction in the Common Development Work Compensation for the removal of such scope will be determined by subtracting (i) the reasonable value of the Work performed for the Expansion Facility Dock (under both this Agreement and the Train 2 EPC Agreement, using the terms of this Agreement and the Train 2 EPC Agreement as the basis for such valuation) from (ii) the Expansion Facility Dock Price, and then reducing the Common Development Work Compensation by such difference. This reduced Common Development Work Compensation shall then be used as part of the basis to determine the adjustment to the Common Contract Price Component pursuant to Section 6.14.

B. ***Other Amendments to Address Termination of Train 2 EPC Agreement***. In the event that the Parties intend to enter into a Change Order under this Section 6.14 as a result of the termination of the Train 2 EPC Agreement, the Parties acknowledge that such Change Order will include appropriate modifications to this Agreement in instances where requirements, obligations or events herein are conditioned upon events occurring under the Train 2 EPC Agreement, such as, for example, the timing of the Required Final Completion Date and the achievement of substantial completion (and the commencement of the Defect Correction Period) for Common Systems that were otherwise anticipated to achieve substantial completion under the Train 2 EPC Agreement pursuant to Section 11.2A.

6.15 **Adjustment to Schedule Bonus Date**. If the commencement, prosecution or completion of the Work is delayed by a Qualified Force Majeure Event, then Contractor shall be entitled to an adjustment to the Schedule Bonus Date for each Day of a Qualified Force Majeure Event; *provided that* the Schedule Bonus Date may not be adjusted under this Agreement more than thirty (30) Days in the aggregate. Any adjustment to the Schedule Bonus Date shall be recorded in a Change Order. Notwithstanding anything to the contrary in this Agreement, Contractor shall not be entitled to an adjustment to the Schedule Bonus Date for any other reason or cause whatsoever, including for Owner-caused delay.

ARTICLE 7
CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

7.1 **Contract Price**. Subject to the allocation of compensation for the Common Development Work as set forth in Section 7.2A, as compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement, Owner shall pay and Contractor shall accept Two Billion Five Hundred Eighty Five Million Eight Hundred Twenty One Thousand Eight Hundred Sixty-Four U.S. Dollars (U.S.$2,585,821,864) (the "***Contract Price***"). The Contract Price is subject to adjustment only by Change Order as provided in Article 6, and includes all Taxes, the Provisional Sums, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Contract Price does not include Texas state and applicable local sales and use taxes on Tax Exempt Equipment (which is subject to exemption as provided under Section 4.5A) and Taxable Equipment. The Contract Price is separated, in accordance with the definition of separated contract as defined in 34 Tex. Admin Code Rule § 3.291(a)(13), as follows:

A. Seven Hundred Thirty Nine Million Four Hundred Fifty Thousand Four Hundred Eighty-Eight U.S. Dollars (US$739,450,488) ("***Tax Exempt Equipment Price***") for Tax Exempt Equipment (subject to the allocation of compensation as set forth in Section 7.2A for the Tax Exempt Equipment included as part of the Common Development Work). Such Tax Exempt Equipment is listed in Attachment FF (which may be changed by Change Order in accordance with Section 4.5A.2). The Tax Exempt Equipment Price includes the cost of Tax Exempt Equipment, including markup, overhead, profit and freight, but excluding labor.

B. Three Hundred Ninety Four Million Six Hundred Thirty Three Thousand Two Hundred One U.S. Dollars (US$394,633,201) (*"**Taxable Equipment Price**")* for all Equipment (including materials) to be permanently installed in the Train 1 Project (other than Tax Exempt Equipment) ("***Taxable Equipment***"), subject to the allocation of compensation as set forth in Section 7.2A for Taxable Equipment included as part of the Common Development Work. The Taxable Equipment Price includes the cost of Equipment (including markup, overhead, profit, and freight if the Vendor provides the freight, but excluding labor). Such Taxable Equipment is listed in Attachment FF.

C. One Billion Four Hundred Fifty One Million Seven Hundred Thirty Eight Thousand One Hundred Seventy-Five U.S. Dollars (US$1,451,738,175) ("***Labor and Skills Price*"**) for all Work in this Agreement other than for Tax Exempt Equipment and Taxable Equipment (subject to the allocation of compensation as set forth in Section 7.2A for any portion of such Work that is included as part of the Common Development Work), which such Work includes all labor, engineering, design, services not subject to Texas state and applicable local sales and use taxes, installation, consumables, construction tools, freight, equipment rentals, overhead and all other items of whatever nature applicable to the Work. Excluding only the Tax Exempt Equipment Price and the Taxable Equipment Price, the Labor and Skills Price shall include all costs, charges and expenses of whatever nature applicable to the Work, including Taxes on all Work and Texas state and applicable local sales and use taxes on all Work other than on Tax Exempt Equipment and Taxable Equipment.

The Contract Price also includes Ninety Four Million Six Hundred Forty Two Thousand Four Hundred Sixty-Six U.S. Dollars (US$94,642,466) ("***Aggregate Provisional Sum***") for Provisional Sum Scope Items as further identified in Attachment DD. The Aggregate Provisional Sum is the aggregate of the Provisional Sums for each Provisional Sum Scope Item, as shown in Attachment DD. As shown in Attachment DD, each Provisional Sum for a Provisional Sum Scope Item is separated into (i) a price for Tax Exempt Equipment (ii) a price for Taxable Equipment, and (iii) a price for all other Work that is not included in the pricing for Tax Exempt Equipment or Taxable Equipment. (For the avoidance of doubt, those price separations identified in Attachment DD for the Provisional Sum Scope Items are incorporated into the separated price components identified in Sections 7.1A, B and C above.) In addition, each Provisional Sum for a Provisional Sum Scope Item is also itemized between Train 1-Specific Work and Common Development Work. The Contract Price will be subject to adjustment by Change Order with respect to the Aggregate Provisional Sum as set forth in Attachment DD. Such Change Order will also adjust the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 1-Specific

Contract Price Component, Common Contract Price Component and Common Development Work Compensation as appropriate.

7.2 **Contract Price Components.**

A. ***Common Contract Price Component***. The Parties acknowledge that the Train 2 Expansion is being developed by Contractor under the Train 2 EPC Agreement concurrently with the development of the Train 1 Expansion. As a result of this, the Common Development Work, which is a scope of the Work hereunder that is also required as part of the work under the Train 2 EPC Agreement, is being jointly funded by Owner (under this Agreement) and FLIQ2 (under the Train 2 EPC Agreement). The Parties agree that the compensation paid to Contractor for the performance of the Common Development Work is being split equally among Owner and FLIQ2 and that any adjustments to such compensation shall also be shared equally by Owner and FLIQ2 unless otherwise agreed by Owner and FLIQ2. The total compensation to be paid to Contractor for the Common Development Work is Two Billion Two Hundred Sixty One Million One Hundred Sixteen Thousand Seventy U.S. Dollars (U.S.$2,261,116,070) (the "***Common Development Work Compensation***"). The portion of the Contract Price allocated to Owner under this Agreement for such Common Development Work shall be one-half of the Common Development Work Compensation or One Billion One Hundred Thirty Million Five Hundred Fifty Eight Thousand Thirty-Five U.S. Dollars (U.S.$1,130,558,035) (the "***Common Contract Price Component***"), and Owner, subject to Section 6.14, shall only be obligated to pay Contractor for the Common Contract Price Component under this Agreement for the full performance of the Common Development Work (notwithstanding that the full scope of the Common Development Work is set forth in this Agreement). In accordance with Section 6.13 (and subject to the exceptions set forth therein), the Common Development Work Compensation shall only be adjusted by written agreement of Contractor, Owner and FLIQ2 (which such written agreement can be memorialized via a Change Order under this Agreement executed by Owner and Contractor and a corresponding change order under the Train 2 EPC Agreement executed by FLIQ2 and Contractor). The Common Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Common Development Work).

B. ***Train 1-Specific Contract Price Component***. The portion of the Contract Price allocated to the Train 1-Specific Work is One Billion Four Hundred Fifty Five Million Two Hundred Sixty Three Thousand Eight Hundred Thirty U.S. Dollars (U.S.$1,455,263,830) (the "***Train 1-Specific Contract Price Component***"). The Train 1-Specific Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Train 1-Specific Work).

7.3 **Interim Payments**.

A. ***Payments***. Progress payments shall be made by Owner to Contractor in accordance with the Payment Milestone Schedule (as may be amended by Change Order pursuant to Section 6.1B or 6.2C) set forth in Schedule C-1, which allocates the payment of the Contract Price upon completion of Payment Milestones as set forth in Schedule C-1, *provided that* Contractor is otherwise in material compliance with the terms of this Agreement. Owner shall also make payments to Contractor for any unilateral Change Orders issued in accordance with Section 6.1C or 6.2D. Each payment shall be subject to Owner's right to withhold payments under this Agreement, including Section 5.4F, 7.6 and 13.2. Payments shall be made in U.S. Dollars to an account designated by Contractor. The Payment Milestone Schedule shall be amended only by Change Order pursuant to this Agreement.

B. ***Invoices for Train 1-Specific Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner an Invoice for all Train 1-Specific Work Payment Milestones completed during the prior Month, if any. The Train 1-Specific Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Train 1-Specific Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Train 1-Specific Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Train 1-Specific Work Payment Milestones and Train 1-Specific Work unilateral Change Order charges, other than the Invoice for final payment of Train 1-Specific Work under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Train 1-Specific Work unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Train 1-Specific Work.

C. ***Invoices for Common Development Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner and FLIQ2 an Invoice for all Common Development Work Payment Milestones completed during the prior Month, if any. The Common Development Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Common Development Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Common Development Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Common Development Work Payment Milestones and Common Development Work unilateral Change Order charges, other than the Invoice for final payment of Common Development Work under this Agreement, shall be in the form of Schedule I-2, and shall include all documentation supporting its request for payment as

required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Common Development Work unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner and FLIQ2 hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Common Development Work. For the avoidance of doubt, and notwithstanding anything to the contrary herein, Owner and Contractor agree and acknowledge that, notwithstanding that the Common Development Work will be jointly invoiced to Owner and FLIQ2, (i) Owner shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as set forth herein, (ii) FLIQ2 shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as defined in the Train 2 EPC Agreement, and (iii) Owner shall not be responsible for paying for FLIQ2's portion of the Common Development Work Compensation except as provided for in Section 6.14. FLIQ2 shall not have any obligations to pay any amounts under this Agreement.

D. ***Interim Lien and Claim Waivers***. Each set of Monthly Invoices received by Owner under this Agreement prior to Final Completion shall be accompanied by (i) fully executed Interim Lien and Claim Waivers from Contractor in the forms of Schedules K-1 and K-2 for all Work performed through the date for which payment is requested, (ii) fully executed Interim Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Interim Lien and Claim Waivers for all Major Sub-subcontractors requested in substantially the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested. Interim Lien and Claim Waivers, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Interim Lien and Claim Waivers only if they have performed Work not covered by a previous Interim Lien and Claim Waiver. Submission of all Interim Lien and Claim Waivers is a condition precedent to payment of any Invoice.

E. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement, including Retainage as set forth in Section 7.13), subject to Owner's several liability with respect to Invoices for Common Development Work, shall be due and payable thirty (30) Days after it, and all documentation required under this Agreement, is received by Owner. If an Invoice is disputed by Owner, then payment shall be made for all undisputed amounts owed by Owner and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts shall be made as soon as such dispute is resolved.

F. ***Maximum Cumulative Payments***. The Parties have agreed upon and set forth in Schedule C-2 a schedule of the maximum cumulative amounts ("***Maximum Cumulative Payment Schedule***") that Contractor is allowed to invoice Owner at any one time during the Train 1 Project for the completion of the Work, regardless of whether

Contractor has completed Work (via completion of Payment Milestones) that represents amounts greater than the Maximum Cumulative Payment Schedule. The Maximum Cumulative Payment Schedule sets the maximum cap on invoiced amounts, but does not set a minimum amount that Contractor may invoice Owner, as Sections 7.3A and 7.3B specify the procedure for determining the amount of each Invoice. The Maximum Cumulative Payment Schedule shall be adjusted only by Change Order executed by both Parties.

7.4 **Final Completion and Final Payment for Train 1-Specific Work and Common Development Work**. Upon Final Completion, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit fully executed final Invoices for the Train 1-Specific Work and Common Development Work in the forms attached hereto as Schedules I-3 and I-4, respectively, along with (i) a statement summarizing and reconciling all previous Train 1-Specific and Common Development Work Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Equipment, and any other indebtedness connected with the Work have been paid, including Texas state and applicable local sales and use taxes which Contractor is required under this Agreement to pay, (iii) fully executed Final Lien and Claim Waivers from Contractor in the forms of Schedules K-5 and K-6, (iv) fully executed Final Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-7 and K-8, (v) if requested by Owner, fully executed Final Lien and Claim Waivers from each Major Sub-subcontractor in substantially the forms set forth in Schedules K-7 and K-8, and (vi) to the extent not previously provided to Owner, Retainage Letters of Credit that, in the aggregate, equal the full amount of Retainage to be withheld by Owner under this Agreement. No later than thirty (30) Days after receipt by Owner of such final Invoices and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this Agreement, pay Contractor the balance of the Contract Price (including the Retainage, if Retainage Letters of Credit in the full amount of Retainage have been provided by Contractor).

7.5 **Payments Not Acceptance of Work**. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.6 **Payments Withheld**. In addition to disputed amounts set forth in an Invoice, Owner may, in addition to any other rights under this Agreement, at law or in equity and upon fifteen (15) Days prior written notice to Contractor, withhold payment on an Invoice or a portion thereof, or collect on the Letter of Credit, in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to:

A. Defective Work not remedied in accordance with this Agreement;

B. stop payment notices, liens or other encumbrances on all or a portion of the Site, the Work or the Facility, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, *provided that*

Owner has made payment to Contractor of all undisputed amounts due to Contractor in accordance with the terms of this Agreement;

C. any breach by Contractor of any material provision of this Agreement;

D. the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards;

E. amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information;

F. Delay Liquidated Damages which Contractor owes under the terms of this Agreement;

G. failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts, excluding the right of Contractor to withhold payments to Subcontractors as provided under the terms of the applicable Subcontract;

H. damage or loss to the Existing Facility caused by Contractor or any of its Subcontractors or Sub-subcontractors, subject to the limitations of Contractor's liability for such damage or loss as set forth in Section 20.2; or

I. any other costs or liabilities which Owner has incurred for which Contractor is responsible, unless otherwise covered by insurance or bond in a form reasonably satisfactory to Owner, *provided that* Contractor is in compliance with its indemnity, hold harmless and defense obligations under this Agreement.

Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee or bond reasonably satisfactory to Owner in the amount of the withheld payment.

7.7 **Interest on Late Payments**. Any amounts due but not paid hereunder shall bear interest at the lesser of (i) an annual rate equal to the prime rate published by the Wall Street Journal plus two percent (2%), or (ii) the maximum rate permitted under Applicable Law.

7.8 **Work Breakdown Structure**. Within sixty (60) Days after the NTP, Contractor shall deliver to Owner for Owner's written approval a detailed breakdown of the Work by activity, with each such activity having a written description and hierarchal coding ("***Work Breakdown Structure***"). The Work Breakdown Structure shall be consistent with the Baseline CPM Schedule and the form of Work Breakdown Structure in Schedule C-3. After approval by Owner of such Work Breakdown Structure, Contractor shall have the right during the course of the Train 1 Project and upon Owner's written approval, to modify the Work Breakdown Structure, *provided that* at all times it remains consistent with the Baseline CPM Schedule.

Contractor shall promptly provide Owner with copies of any revised Work Breakdown Structure.

7.9 **Payment Error**. If an error is made in connection with a payment, and such payment is an overpayment, the overpayment shall be reconciled with the next monthly Invoice, or if no further invoices are planned or the amount of such Invoices are not estimated to be of an amount to properly reconcile the error, then the Party receiving such payment in error shall promptly refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Owner under this Agreement, (i) if Owner discovers that a Payment Milestone was not in fact completed, or that Work associated with an Invoice contained Defective Work, then Owner may, at its sole discretion and upon prior written notice to Contractor, offset the amount of the payment against future payments or collect on the Letter of Credit in the amount of the payment until such Payment Milestone or correction of the Defective Work is achieved or (ii) if Owner discovers that any amounts paid by it to Contractor in a preceding Month was incorrect or lacked sufficient or accurate supporting information, then Owner may, at its sole discretion but only after giving prior written notice to Contractor, offset such amounts against future payments or collect on the Letter of Credit for such amounts until sufficient and accurate supporting information is provided pursuant to Section 7.3.

7.10 **Currency**.

A. Unless otherwise specified, all amounts contained herein are in and shall be paid in U.S. Dollars.

B. Foreign Exchange Parity.

As of the Effective Date, the Contract Price assumes the following foreign (non-U.S. Dollar) currency at the listed value and exchange rate to the U.S. Dollar:

FOREIGN CURRENCY	**VALUE IN FOREIGN CURRENCY**	**EXCHANGE RATE**
EURO	€ 100,950,865	1.301 USD TO EURO

On the date Owner issues NTP, the Contract Price shall be subject to an upward or downward adjustment by Change Order to account for currency fluctuations. This adjustment will be determined by multiplying (a) the difference of the exchange rate as quoted by the Wall Street Journal on the following website:

http://online.wsj.com/public/page/news-currency-currencies-trading.html

for the closing exchange rate on the date Owner issues NTP (the "***NTP Exchange Rate***") and the above listed exchange rate ("***Contract Exchange Rate***") by (b) the corresponding value in foreign currency listed above ("***Value of Foreign Currency***").

For clarity, the Contract Price adjustment shall be determined by the following formula:

$$Adjustment = [Value\ of\ Foreign\ Currency\ x\ [NTP\ Exchange\ Rate - Contract\ Exchange\ Rate]]$$

The Change Order implementing the foregoing adjustment shall also further itemize the adjustment, as applicable, into the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 1-Specific Contract Price Component, Common Contract Price Component and Common Development Work Compensation.

7.11 **Conditions Precedent to Payment**. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner, and is maintaining (i) the Parent Guarantee and the Letters of Credit in accordance with Section 21.16 and Article 9, and (ii) the insurance policies in accordance with Article 9.

7.12 **Payments to Subcontractors**. Contractor agrees and acknowledges that, if FLIQ2 withholds, offsets or otherwise does not make a payment to Contractor under the Train 2 EPC Agreement, Contractor shall not utilize payments made by Owner under this Agreement to compensate Subcontractors for work performed under the Train 2 EPC Agreement; *provided that* payments made under this Agreement to Contractor can be utilized to pay Subcontractors to the extent such payment arises from Owner's portion of the Common Development Work Compensation.

7.13 **Retainage and Retention Letter of Credit**.

A. ***Retainage***. Owner shall withhold from each Invoice submitted on or after NTP from Contractor an amount equal to two and one-half percent (2.5%) of the amount of each Train 1-Specific Invoice and one and one-quarter percent (1.25%) of the amount of each Common Development Work Invoice (collectively, the "***Retainage***"); *provided that*, if Owner takes over the full scope and payment of the Common Development Work in accordance with Section 6.14, Owner may withhold two-and-one-half percent (2.5%) from each Common Development Work Invoice as part of the Retainage. For amounts paid by Owner to Contractor prior to NTP that are credited against the Contract Price, Retainage (in accordance with the ratios set forth above) for such amounts shall be withheld from the first payments made on or after NTP (in addition to any other Retainage allowed to be withheld from such first payments on or after NTP). Subject to Owner's rights under the Agreement, Retainage withheld from Invoice payments shall be released by Owner to Contractor as follows: (i) upon the first anniversary of Substantial Completion, Owner shall release a portion of the Retainage while continuing to withhold Retainage equal to the sum of (1) one and one-half percent (1.5%) of the original Contract Price plus (2) the estimated cost of correcting any outstanding Defects then-existing at such time; and (ii) upon the expiration of the Defect Correction Period, Owner shall release all remaining Retainage. Owner shall release Retainage based upon the foregoing sentence promptly after the passing of the event prompting such release but in any event within thirty (30) Days after such event and receipt from Contractor for an invoice for the release of such Retainage. Because Retention Letters of Credit may be substituted for Retainage as set forth in Sections 7.12B and 9.3, the aggregate value of the Retainage

withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in this Section A and reductions to the Retention Letters of Credit and releases of Retainage shall correspond in time, and in the amounts, as set forth above in this Section A.

B. ***Retention Letter of Credit as a Substitute for Retainage***. At their sole discretion, Contractor, CB&I or Zachry may elect to substitute a Retention Letter of Credit, pursuant to Section 9.3, in exchange for Owner releasing previously withheld Retainage, or for Owner to forego the withholding of Retainage from the payment of an Invoice, in the amount of such Retention Letter of Credit.

1. With respect to previously withheld Retainage, if Contractor, CB&I or Zachry make an election to provide Owner with a Retention Letter of Credit, Owner shall release previously withheld Retainage promptly to the applicable party in the amount of the Retention Letter of Credit provided, after receipt of such Retention Letter of Credit and an invoice for the Retainage release (but in any event within thirty (30) Days after receipt of such Retention Letter of Credit and invoice).

2. With respect to Retainage to be withheld from a prospective Invoice payment, if Contractor, CB&I or Zachry provide Owner with a Retention Letter of Credit seven (7) or more Days prior to the payment due date of such Invoice (and such Retention Letter of Credit has an effective date no later than Owner's Invoice payment due date), Owner, unless restricted from doing so by its financing documents with its Lenders, shall not withhold that portion of the Retainage (in the amount of such Retention Letter of Credit) from the Invoice payment. In the event Contractor, CB&I or Zachry provide a Retention Letter of Credit as set forth in the 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 7.13B (including any Retainage not withheld pursuant to Section 7.13B.2) shall not exceed the aggregate amount of Retention Letters of Credit which have been provided to Owner by Contractor, CB&I or Zachry.

7.14 ***Payments by FLIQ CF***. Notwithstanding anything to the contrary set forth herein and without limiting the generality of Section 8.1C, FLIQ CF has the right, but not the obligation, to pay to Contractor, and upon such payment Contractor shall accept, on behalf of Owner, all or any portion of the Contract Price as the same shall become due in accordance with this Agreement.

ARTICLE 8
TITLE AND RISK OF LOSS

8.1 **Title**.

A. ***Clear Title***. Subject to Contractor's receipt of payment of undisputed amounts when due under this Agreement, Contractor warrants and guarantees to Owner and FLIQ CF that Owner and FLIQ CF, as applicable, will receive good and legal title to and ownership of the Work and the Train 1 Expansion shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner and FLIQ CF, as applicable.

B. ***Title to Work***. Title to all or any portion of the Work (other than Work Product) shall pass to either Owner or FLIQ CF (as determined pursuant to Section 8.1C) upon the earlier of (i) payment therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Train 1 Expansion. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right of Owner under the Agreement.

C. ***Title Passage to FLIQ CF***. Title to the Train 1-Specific Work shall pass from Contractor to Owner in accordance with the timing set forth in Section 8.1B. Title to the Common Development Work shall pass from Contractor directly to FLIQ CF in accordance with the timing set forth in Section 8.1B. Notwithstanding passage of title in accordance with the foregoing, the Parties and FLIQ CF acknowledge that they will be signatories to an Equipment Sharing Agreement and that title to items of Equipment may pass among Owner, FLIQ CF and the other signatories to such Equipment Sharing Agreement in accordance with the terms therein. FLIQ CF shall be a signatory to this Agreement solely for purposes of taking title to the Common Development Work in accordance with this Section 8.1C and those other purposes expressly stated in the signature block for FLIQ CF included in this Agreement and shall not assume any other obligations under this Agreement to Contractor (including any obligation to pay any portion of the Contract Price, notwithstanding its right to make payments under Section 7.14) as a result of its execution of the Agreement and receipt of title of the Work, and Contractor waives any right to seek any compensation from FLIQ CF with respect to the Work or otherwise under this Agreement, at law or in equity.

8.2 **Risk of Loss**.

A. ***Prior to Substantial Completion***. Notwithstanding passage of title as provided in Section 8.1 of this Agreement, and except as otherwise stated in Section 8.2A.1, Contractor shall bear the risk of physical loss and damage to the Train 1 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Expansion Facility) as follows: (i) with respect to the Train 1 Expansion (other than the Expansion Facility Dock, which is not required to achieve Substantial Completion simultaneously with the Train 1 Expansion in accordance with Section 11.2A), Contractor shall bear the risk of physical loss and damage until Substantial Completion of the Train 1 Expansion is achieved; (ii) with

respect to the Expansion Facility Dock, Contractor shall continue to bear the risk of physical loss and damage for the Expansion Facility Dock until such risk of physical loss and damage is transferred to FLIQ2 pursuant to the Train 2 EPC Agreement, *provided*, if the Train 2 EPC Agreement is terminated in accordance with the rights set forth therein prior to such transfer of risk of physical loss and damage to the Expansion Facility Dock, then, as between Owner and Contractor, such risk of physical loss and damage to the Expansion Facility Dock shall transfer to Owner upon Final Completion of this Agreement.

1. Notwithstanding Section 8.2A above, Contractor shall not be liable to Owner for any such physical loss or damage if and to the extent: (a) such physical loss or damage is not insured under the builder's risk policy or marine cargo insurance policy required to be provided by Owner under Sections 2.A.1 and 2.A.2 of Attachment O to this Agreement because of Owner's failure to maintain such policies in full force and effect at all times required under this Agreement, (b) Owner receives payment from the insurance company or companies under such policies for such physical loss or damage, (c) such physical loss or damage is not insured under the builder's risk policy because of an exclusion specified in such policy and Contractor is not otherwise liable to Owner pursuant to Section 8.2A.2, (d) the value of such physical loss or damage exceeds the named windstorm, flood or earthquake sublimit(s) as a result of damage or loss caused by a named windstorm, flood or earthquake event, (e) the value of such physical loss or damage exceeds the monetary policy limits (including any sublimits or aggregate limits) of the builder's risk policy or (f) the physical loss or damage is caused by (1) ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste, (2) nuclear weapons material, (3) war, invasion, act of foreign enemy hostilities or warlike operations, civil war, rebellion, revolution or insurrection, (4) act of any person in connection with activities directed towards the overthrow by force of the government, (5) permanent or temporary dispossession resulting from confiscation, nationalization, commandeering or requisition by any lawfully constituted authority or (6) an act of terrorism (as defined in the builder's risk policy); *provided, however*, with respect to deductibles under the builder's risks and marine cargo insurance, Contractor shall remain liable to the Owner for the policy deductibles, regardless of fault, but not to exceed One Million Dollars (U.S.$1,000,000) per occurrence for such deductibles as specified in Section 2.B of Attachment O; *provided further, however*, with respect to the foregoing proviso, if Contractor is also liable to FLIQ2 for the builder's risks or marine cargo insurance policy deductibles under Section 8.2A.1 of the Train 2 EPC Agreement for the same occurrence, then Contractor's total liability, in the aggregate, for such deductibles under this Agreement and the Train 2 EPC Agreement shall not exceed One Million Dollars (U.S.$1,000,000) per occurrence, with such liability being credited equally between Owner and FLIQ2 (unless Owner and FLIQ2 agree otherwise in writing). This Section 8.2A.1 shall not be interpreted to relieve Contractor of any of its other obligations or liabilities under the Agreement, including its obligations with respect to Defective Work and Corrective Work.

2. To the extent of Contractor's, Subcontractor's or Sub-subcontractor's fault, Contractor shall be liable to Owner for physical loss or damage that is not covered by the builder's risk policy to be procured by Owner under this Agreement because of any of the following exclusions to such builder's risk policy: aircraft, watercraft or vehicle, cash and money, wear, tear, erosion and corrosion, inventory and stocktaking, defects in design, plan, specification, material or workmanship, penalties and consequential loss, pollution and contamination arising out of a covered perils, contractor's plant and equipment, transmission and distribution lines, wet works, hydrocarbons, piling, electronic data, asbestos or toxic mold. Notwithstanding anything to the contrary herein, the Parties agree and acknowledge that, in the event that an insurance claim for physical loss or damage to the Train 1 Expansion is denied by the builder's risk policy insurer as a result of an exclusion listed in this Section 8.2A.2, Owner shall have the right to elect, at its own discretion, whether to dispute any such denial of the claim; *provided, however*, in the event of Owner's election to not dispute such denial of the insurance claim, such election shall not prejudice Contractor's right to dispute same with the insurer as an additional insured under the builder's risk policy or any argument by Contractor that such exclusion was not applicable in any Dispute with Owner arising out of a claim by Owner against Contractor that Contractor is liable to Owner for the physical loss or damage pursuant to this Section 8.2A.2.

3. With respect to any physical loss or damage to the Train 1 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Train 1 Expansion), Contractor shall be entitled to a Change Order adjusting the Guaranteed Substantial Completion Date and Required Final Completion Date if and to the extent permitted under Section 6.8A.

4. To the extent Contractor does not bear the risk of physical loss or damage as described in Section 8.2A, then with respect to such physical loss or damage to the Train 1 Expansion, Contractor shall be entitled to a Change Order adjusting the Contract Price for: (i) the cost to repair, reconstruct or replace the damaged Train 1 Expansion (which such adjustment shall account for updated progress payments to Contractor to maintain cash flows consistent with the payment philosophies underlying the original progress payment terms and Maximum Cumulative Payment Schedule); (ii) the cost of debris removal, and (iii) to the extent recovered by Owner under insurance provided by Owner under Section 2.A.1 of Attachment O or to the extent otherwise directed by Owner in writing, the cost to accelerate or expedite such repair, reconstruction or replacement and stand-by costs, if any.

B. ***After Substantial Completion***. As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train 1 Expansion and each component thereof (other than the Expansion Facility Dock, which is not required to achieve Substantial Completion simultaneously with the Train 1 Expansion in accordance

with Section 11.2A) after Substantial Completion of the Train 1 Expansion is achieved. With respect to the Expansion Facility Dock, the risk of physical loss and damage to the Expansion Facility Dock shall pass from Contractor to FLIQ2 in accordance with the Train 2 EPC Agreement; *provided that*, if the Train 2 EPC Agreement is terminated prior to the transfer of risk of physical loss and damage of the Expansion Facility Dock from Contractor to FLIQ2, then, as between Owner and Contractor, the risk of physical loss and damage to the Expansion Facility Dock shall be borne by Owner after achievement of Final Completion of this Agreement. 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.

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.

B. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage.

C. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

D. ***Unavailable Insurance***. If any insurance (including the limits, coverage, endorsements, policy terms, conditions or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Owner and Contractor shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two (2) independent advisors, including insurance brokers, of recognized international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the

required amount or coverage is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party; and *provided further* that such waiver is permitted pursuant to any agreements between Owner and its Lenders. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

9.2 **Irrevocable Standby Letter of Credit**. Owner shall provide Contractor with at least five (5) Business Days prior written notice of Owner's intent to issue NTP. Prior to Owner's issuance of NTP (or, if Owner has not provided at least 5 Business Days prior written notice of its issuance of NTP in accordance with the foregoing sentence, then within 5 Business Days after receipt of such notice), and as a condition precedent to Contractor's right to receive any payments under this Agreement, except payments expressly permitted pursuant to an LNTP, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of One Hundred and Twenty-Two Million Five Hundred Thousand U.S. Dollars (U.S.$122,500,000), and in the form of Schedule R-1, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a long-term local currency issuer credit rating of at least A- by Standard & Poor's and a long-term credit rating of at least A3 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, and at Owner's written request, Contractor shall replace the Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-1 specifying the general nature of such Default or breach or Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Letter of Credit that it has decided not to extend the Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a commercial bank meeting the requirements in this Section 9.2. Upon the achievement of Substantial Completion of the Train 1 Expansion, and Owner's acceptance and execution of the

Substantial Completion Certificate in accordance with this Agreement, Owner shall return the original Letter of Credit, and any Letter of Credit amendments that have been issued, to the commercial bank that issued the Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-1 stating the Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Letter of Credit shall occur no later than five (5) Business Days after Owner's acceptance of Substantial Completion of the Train 1 Expansion. The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the Substantial Completion of the Train 1 Expansion. Partial drawings are permitted under the Letter of Credit. In addition, the Parties acknowledge that Contractor may fulfill the Letter of Credit requirements set forth in this Section 9.2 through multiple, coexistent Letters of Credit issued to Owner with the applicants of those Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Letters of Credit, in the aggregate, equal the dollar values required herein.

9.3 **Retention Letter of Credit**. Owner may withhold Retainage as provided under Section 7.13. As a condition precedent to Contractor's right to receive Retainage withheld by Owner, Contractor, in its sole discretion at any time during the course of the Train 1 Project, may deliver to Owner a retention letter of credit, naming Owner as beneficiary, in an amount not to exceed the cumulative amount withheld by Owner under Section 7.13A, in the form of Schedule R-2, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the retention letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Retention Letter of Credit***"). If at any time the rating of the commercial bank that issued the Retention Letter of Credit falls below either of the Investment Grade ratings, and at Owner's written request, Contractor shall replace the Retention Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the Retention Letter of Credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Retention Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-2 specifying the general nature of such Default or breach, Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Retention Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Retention Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Retention Letter of Credit that it has decided not to extend the Retention Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Retention Letter of Credit for all remaining funds in the Retention Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then

current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Retention Letter of Credit and from a commercial bank meeting the requirements in this Section 9.3. Partial drawings are permitted under the Retention Letter of Credit. The Retention Letter of Credit shall remain in full force and effect from the issuance of the Retention Letter of Credit through the expiration of the Defect Correction Period under this Agreement. After expiration of the Defect Correction Period, Owner shall return the original Retention Letter of Credit, and any Retention Letter of Credit amendments that have been issued, to the commercial bank that issued the Retention Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-2 stating the Retention Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Retention Letter of Credit shall occur no later than five (5) Business Days after expiration of the Defect Correction Period. The amount of the Retention Letter of Credit shall be reduced on the same basis that Retainage is released pursuant to Section 7.13A. No later than five (5) Business Days after the passage of an event prompting a release of Retainage as set forth in Section 7.13A, Owner shall provide the commercial bank that issued the Retention Letter of Credit with written notice of such event in the form of Annex VI of Schedule R-2 stating that such event has occurred. For purposes of clarity, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in Section 7.13A. In addition, the Parties acknowledge that Contractor may fulfill the Retention Letter of Credit requirements set forth in this Section 9.3 through multiple, coexistent Retention Letters of Credit issued to Owner with the applicants of those Retention Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Retention Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Retention Letters of Credit, in the aggregate, equal the dollar values required herein (including any reductions in value as set forth herein).

9.4 **Financial Statements**. As soon as available, but in any event within sixty (60) Days after the end of each fiscal quarter of Zachry Guarantor and CB&I Guarantor, Contractor shall deliver to Owner the unaudited and consolidated balance sheet of Zachry Guarantor and CB&I Guarantor as of the end of such quarter, the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of each of Zachry Guarantor and CB&I Guarantor, subject to normal year-end audit adjustments. As soon as available, but in any event not later than one-hundred twenty (120) Days after the end of each fiscal year of Zachry Guarantor and CB&I Guarantor, Zachry Guarantor and CB&I Guarantor shall deliver to Owner a copy of the audited consolidated balance sheets at the end of each such year as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 9.4 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

ARTICLE 10
OWNERSHIP OF DOCUMENTATION

10.1 **Ownership of Work Product**.

A. Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Train 1 Expansion

done by Contractor for Owner (including any work done by Contractor or any of its Affiliates under the FEED Agreement or any other agreements between the Parties related to the Train 1 Project), Contractor or its Affiliates, Subcontractors or Sub-subcontractors will create or have created for this Train 1 Project certain plans, operating and maintenance procedures and manuals, Drawings, Specifications, calculations, or other technical tangible manifestations of Contractor's efforts (whether written or electronic) (hereinafter individually or collectively referred to as "***Work Product***"). Subject to Sections 10.1A.1 and 10.1A.2 below, Work Product prepared by Contractor or its Affiliates, Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Contractor, its Affiliates, Subcontractors, Sub-subcontractors or any other Person. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees that such ownership and copyrights in the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

1. If Contractor, using commercially reasonable efforts, is unable to procure ownership of the Work Product for Owner as set forth in Section 10.1A above from any Subcontractor and Sub-subcontractor, then, at a minimum, Contractor shall procure for Owner and its Affiliates from such Subcontractors and Sub-subcontractors an irrevocable, perpetual and royalty-free license (including with right to assign its right without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in the Facility) to use, disclose, modify and copy such Work Product for any purpose relating to the Expansion Facility.

2. For the avoidance of doubt, Contractor shall not be required to obtain rights to Work Product as set forth in Section 10.1A above from Subcontractors and Sub-subcontractors providing bulk commodities or generic "off-the-shelf" Equipment.

3. The Parties acknowledge that, with respect to Work Product relating to the Common Development Work, the rights, title and interest to such Work Product (or licenses, to the extent provided for in Section 10.1A.1) shall also vest in FLIQ2 and its affiliates in accordance with the Train 2 EPC Agreement as well as FLIQ CF.

B. Notwithstanding Section 10.1A, as among Owner, Zachry, CB&I and Contractor, Zachry and CB&I shall retain ownership of all proprietary intellectual property rights owned by Zachry or CB&I and developed by Zachry or CB&I outside this Agreement, the FEED Agreement or any other agreements between the Parties (or their Affiliates) related to the Expansion Facility (hereinafter referred to as "***Contractor's***

Intellectual Property"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in this Section 10.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary intellectual property owned and developed by Contractor's Equipment Subcontractors or Equipment Sub-subcontractors for any project other than the Expansion Facility ("***Third Party Proprietary Work Product***"). With respect to such Contractor's Intellectual Property and Third Party Proprietary Work Product relating to the Work or the Expansion Facility, Contractor hereby grants Owner and its Affiliates an irrevocable, perpetual and royalty-free license (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use, disclose, modify and copy such Contractor's Intellectual Property and Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided, however*, if Owner uses Third Party Proprietary Work Product or Contractor Intellectual Property for purposes other than those relating to the Expansion Facility, and Owner does not procure the necessary ownership, license or rights for such use, Owner shall indemnify, defend and hold harmless the Contractor Indemnified Parties with respect to any claims, damages, losses, liabilities or other causes of action arising from such use. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 10.1 except as provided in Section 10.1A.2 above.

10.2 **Return/Delivery of Certain Property**. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Train 1 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product and (ii) Contractor's Equipment Subcontractors and Equipment Sub-subcontractors may retain any Work Product generated by them so long as Owner has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets (native and .pdf files) of documents on CD-ROM for those Drawings and Specifications generated using CAD or other digital means.

10.3 **Contractor's License in Work Product**. Owner and FLIQ CF hereby, on behalf of themselves and their Affiliates, grant to Contractor an irrevocable, perpetual and royalty-free license to use, modify and copy the Work Product for any other project, except for any of the following which may be in such Work Product: (i) any proprietary intellectual property rights owned by Owner or any Affiliate of Owner; (ii) any proprietary intellectual property rights in which Owner or an Affiliate of Owner has a license; or (iii) any proprietary intellectual property rights developed during the performance of this Agreement, the FEED Agreement or any other agreement between the Parties relating to the Expansion Facility, which was derived in whole or part by participation of Owner or any Owner Affiliate. As a condition of using on another project any Work Product which Contractor has a license under this Section 10.3, Contractor shall remove from the Work Product any reference to the Expansion Facility, Owner or FLIQ CF. The foregoing license and rights to use any Work Product granted to Contractor shall be subject to any limitations imposed on Contractor by third parties which have any ownership interest in such Work Product or any proprietary intellectual property embedded therein, and Contractor shall indemnify, defend and hold the Owner Indemnified Parties harmless with respect to any claims, damages, losses, liabilities or other causes of action which relate to Contractor's use of any Work Product for any purposes other than for the Expansion Facility.

10.4 **Owner Provided Documents**. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor 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 Owner upon the earlier of Substantial Completion of the Train 1 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media and (ii) if any such Owner-provided documents are also being utilized by Contractor for purposes of the Train 2 EPC Agreement, such documents may continue to be utilized for such purposes and returned to Owner upon the earlier of substantial completion of the Train 2 Expansion in accordance with the Train 2 EPC Agreement or termination of the Train 2 EPC Agreement.

ARTICLE 11
COMPLETION MILESTONES

11.1 **Notice and Requirements for RFSU and RLFC**.

A. ***Requirements of RFSU***. No later than eighteen (18) months after issuance of NTP, Contractor shall provide to Owner for its review and comment detailed RFSU requirements, in the form of checklists, for each Equipment system or subsystem in such designated portion of the Work. Once Contractor has incorporated all of Owner's comments and/or proposed revisions to the RFSU checklists, such RFSU checklists shall form a part of the requirements for achieving RFSU. Contractor shall comply with all requirements for RFSU set forth in this Agreement, including those requirements set forth in the definition of the term RFSU, Attachment A and Attachment V and the RFSU checklists agreed by Owner and Contractor pursuant to this Section. Upon RFSU of each system or subsystem of Equipment, Contractor shall certify to Owner in the form of Attachment L for RFSU of such system or subsystem ("***RFSU Certificate***") that all requirements under this Agreement for Ready For Start Up have occurred, including all of the requirements specified in the applicable RFSU checklist have been completed. The RFSU Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RFSU have been met.

B. ***Notice and Requirements of RLFC***. Without limitation of the foregoing or any other scheduling requirements contained in this Agreement, Contractor shall give Owner two hundred seventy (270) Days' prior written notice of a thirty (30) Day period in which it expects to achieve RLFC for the Train 1 Expansion (the "***First RLFC Window Period***"). Ninety (90) Days after such initial notice, Contractor shall give Owner a second written notice specifying a twenty one (21) Day period in which it expects to achieve RLFC (the "***Second RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Second RLFC Window Period shall be the latest possible twenty one (21) Day period within the First RLFC Window Period. Sixty (60) Days after such second notice, Contractor shall give Owner a third written notice specifying a fourteen (14) Day period falling within the Second RLFC Window Period in which it expects to achieve RLFC (the "***Third RLFC Window Period***"), *provided that* if

Contractor fails to give timely notice of same, the Third RLFC Window Period shall be the latest possible fourteen (14) Day period within the Second RLFC Window Period. Sixty (60) Days after such third notice, Contractor shall give Owner a fourth written notice specifying a five (5) Day period falling within the Third RLFC Window Period in which it expects to achieve RLFC (the "***Fourth RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Fourth Window Period shall be the latest possible five (5) Day period within the Third RLFC Window Period. Owner shall be entitled to rely on such first, second, third and fourth notices in scheduling the LNG Tankers for the purpose of loading the first cargo of LNG for the Train 1 Expansion. In the event that Contractor at any time becomes aware or has reason to believe that its ability to achieve RLFC will be delayed beyond the applicable window period specified in the then current written notice given pursuant to this Section 11.1B, Contractor will immediately give Owner written notice of such fact and of the date on which Contractor then expects to achieve RLFC, but such notice shall not relieve Contractor of its responsibility to achieve RLFC within the then current window period. Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to achieve RLFC in accordance with this Section 11.1B. Contractor shall comply with all requirements for RLFC set forth in this Agreement, including those requirements set forth in the definition of the applicable RLFC and those set forth in Attachments A and V. To the extent not specified in Attachments A and V, the Parties shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon the requirements for achieving RLFC. At such time that the Train 1 Expansion has achieved RLFC, Contractor shall certify to Owner using the applicable RLFC Certificate that all requirements under this Agreement for RLFC have occurred. The RLFC Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RLFC have been met. Notwithstanding the foregoing and prior to the First RLFC Window Period, Contractor shall cooperate with Owner to propose an alternative notice and windowing procedure that is more cost efficient and economically feasible to Owner. If such alternative is accepted by Owner in its sole discretion, the foregoing notice and windowing procedure shall be modified by Change Order.

C. ***Notice Requirements for LNG Evacuation after RLFC***. The notice procedures set forth in this Section 11.1C shall be utilized by Contractor and Owner to set forth the time periods within which Owner shall evacuate certain amounts of LNG from the LNG storage tanks at the Facility after the first LNG Tanker is loaded and until Substantial Completion is achieved for the Train 1 Expansion. Subject to Owner's obligations under Section 4.8E, it shall be Owner's sole discretion as to the method utilized by Owner to evacuate LNG from the LNG storage tanks within the time periods set by the procedure in this Section 11.1C. To the extent Owner fails to evacuate LNG in the amounts, and prior to the end of the firm 5-Day windows, set forth by this Section 11.1C, Owner shall have the obligations, and Contractor shall have the rights, set forth by Section 4.8D.

1. As part of Contractor's notice to Owner of the Fourth RLFC Window Period under Section 11.1B, Contractor shall provide Owner with an

estimate, using GECP, of LNG volumes it expects to produce during commissioning and testing of the Train 1 Expansion up to Substantial Completion, including identifying estimated 5-Day windows within which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks in order to continue with its commissioning and testing activities. Thirty (30) Days after this written notice, Contractor shall provide Owner with another written notice updating any of the foregoing estimated LNG production volumes and 5-Day windowing periods and also identifying the first specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks (in addition to that amount of LNG that is to be evacuated by the RLFC LNG Tanker) or the result would be, in Contractor estimation (using GECP), a material interruption in Contractor's commissioning and testing activities. Upon commencement of loading of the RLFC LNG Tanker, Contractor shall give Owner another written notice updating the estimated LNG production volumes during commissioning and testing and the estimated 5-Day windowing periods and shall also identify the second specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks. Thereafter, Contractor shall provide Owner with additional written notices no less than once per Month updating the estimated LNG production volumes for commissioning and testing and the estimated 5-Day LNG evacuation windows. In these notices, or in separate written notices, Contractor shall specifically identify subsequent, firm 5-Day windows in which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks at the Facility, with such notice being provided at least thirty (30) Days in advance of the commencement of such window. If Contractor's commissioning and testing plans change after giving a specific, firm 5-Day window for LNG evacuation, Contractor shall notify Owner as promptly as possible giving the reason for the change, identifying the new 5-Day firm window and providing Contractor's estimate, using GECP, of the effects of any other estimated 5-Day windows. Owner shall use commercially reasonable efforts to provide LNG evacuation in the updated 5-Day window, but shall not be obligated to provide evacuation in accordance with the updated windowing schedule without receiving at least thirty (30) Days prior written notice. Any LNG evacuated by Owner either in amounts greater than 125,000 m^3 of LNG and/or earlier than an established firm 5-Day window shall be credited to Owner's LNG evacuation requirements of the next firm 5-Day window.

D. ***Delay in RLFC***.

1. If (i) RLFC occurs after the Fourth RLFC Window Period or (ii) the Train 1 Expansion, through no fault of Owner, is unable to load an LNG Tanker to demonstrate RLFC, then Contractor shall have the obligation to pay RLFC Delay Liquidated Damages as follows: One Hundred Thousand U.S. Dollars (U.S.$100,000) per Day for each Day, or portion thereof, until the commencement of LNG Tanker loading (the "***RLFC Delay Liquidated Damages***"), subject to an

aggregate limitation on the assessment of RLFC Delay Liquidated Damages of One Million Five Hundred Thousand U.S. Dollars (U.S.$1,500,000).

2. If Owner does not deliver the LNG Tanker to load the first cargo within the applicable Fourth RLFC Window and Contractor is ready to receive such LNG Tanker, Contractor shall be entitled to a Change Order if and to the extent permitted under Section 6.8 or 6.9, as applicable.

11.2 **Notice and Requirements for Substantial Completion**. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of Substantial Completion herein and in Attachment A and Attachment S. To the extent Contractor has not already provided written notice under Section 11.1C, Contractor shall give Owner not less than ninety (90) Days' prior written notice of its intention to commence each Performance Test, and, on the thirtieth (30th) Day immediately prior to Contractor's intention to commence such testing activities, Contractor shall provide written notice to Owner. To the extent not specified in Attachment S, the Parties shall, no later than two hundred forty (240) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon final test procedures for the conduct of the Performance Tests. Contractor shall provide labor, equipment, supplies, and all other items necessary for the conduct of the Performance Tests; *provided, however*, that Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to conduct the Performance Tests. Contractor shall analyze the data obtained during all Performance Tests, and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to Owner at the completion of testing. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner using the Substantial Completion Certificate that all of the requirements under this Agreement for Substantial Completion have occurred and shall provide with such Substantial Completion Certificate a Performance Test report and analysis to Owner for the Performance Tests conducted for the Train 1 Expansion in order to achieve Substantial Completion. At a minimum, each Performance Test report (including for the Ship Loading Performance Test for the Expansion Facility Dock that may be conducted after Substantial Completion of the Train 1 Expansion) shall include (i) the raw data, (ii) the instrumentation utilized for the applicable Performance Tests, (iii) the procedures utilized during the Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the Minimum Acceptance Criteria Testing Conditions, as and to the extent specified in Attachment S, and (v) any other supporting information used to demonstrate that the Work has met the Minimum Acceptance Criteria and, as applicable, other requirements of this Agreement for Substantial Completion. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

A. ***Substantial Completion and Corrective Work Obligations for Common Systems***. All Common Systems shall be required to be capable of achieving Substantial Completion as part of the achievement of Substantial Completion of the Train 1 Expansion except for the Expansion Facility Dock. For purposes of clarity, the Expansion

Facility Dock shall be required to achieve substantial completion in accordance with the Train 2 EPC Agreement.

B. ***Handover of the Existing Facility Modifications***. The Parties agree and acknowledge that certain portions of the Train 1 Expansion and the Scope of Work will include modifications to the Existing Facility (as described further in Section 4.13 of Schedule A-1, the "***Existing Facility Modifications***"). The Existing Facility Modifications are subject to Section 8.2A of this Agreement and will be considered part of the Work and the Train 1 Expansion for purposes of this Agreement. Notwithstanding anything to the contrary in this Agreement (including the timing of transfer of risk of loss pursuant to Section 8.2), upon Handover of the Existing Facility Modifications, (i) the risk of loss shall transfer from Contractor to Owner for the Existing Facility Modifications, (ii) the Defect Correction Period will commence for the Existing Facility Modifications, (iii) Owner will take over care, custody and operational control of the Existing Facility Modifications and (iv) for purposes of Contractor's and Owner's rights and liabilities under Section 20.2 only, such Existing Facility Modifications will become part of the Existing Facility. "***Handover***" of any portion of the Existing Facility Modifications shall be established when Owner accepts, in writing, Contractor's written certification of the following: (1) that such portion of the Existing Facility Modifications (a) has been fabricated, installed, assembled, erected, and pre-commissioned in accordance with the requirements of the Agreement, (b) has been purged, cooled-down, commissioned and tested to the extent reasonably possible given the on-going operations of the Existing Facility, and (c) has been fully integrated into the Existing Facility and is capable of, and available for, full commercial operation in accordance with the requirements of this Agreement and (2) that Contractor has completed all necessary training, if any, of Owner's personnel with respect to such portion of the Existing Facility Modifications as required by Section 3.5 and Attachment V and Contractor has provided Owner with the necessary operating and maintenance manuals for such portion of the Existing Facility Modifications.

11.3 **Owner Acceptance of RLFC and Substantial Completion**. Owner shall notify Contractor whether it accepts or rejects the RLFC Certificate and Substantial Completion Certificate, as the case may be, within ten (10) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such RLFC Certificate and Substantial Completion Certificate shall be evidenced by Owner's signature on the RLFC Certificate or Substantial Completion Certificate, as applicable, which shall be forwarded to Contractor with such notice. If Owner does not agree that RLFC or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days after the delivery by Owner of its notice, Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall not relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

11.4 **Minimum Acceptance Criteria as a Condition of Substantial Completion**. As a condition of achieving Substantial Completion, Contractor shall achieve all Minimum

Acceptance Criteria, as described in greater detail in this Section 11.4. The Performance Tests for determining whether the Work achieves Minimum Acceptance Criteria are described in Attachment S.

A. ***Minimum Acceptance Criteria Not Achieved***. In the event that the Work fails to achieve any of the Minimum Acceptance Criteria, as evidenced by the Performance Test results, by the Guaranteed Substantial Completion Date, as such date may be extended by Change Order as provided herein, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 13.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of six (6) months (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion for the Train 1 Expansion. If the Work has not achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor a second six (6) month Minimum Acceptance Criteria Correction Period under the same terms and conditions as the first, including the application of Section 13.2; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default at the end of either six (6) month period, Owner shall be entitled to the damages, costs, losses and expenses to which Owner is entitled under Section 16.1B. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, during the Minimum Acceptance Criteria Correction Period (or during the second six (6) month period, should Owner elect that option), then Contractor, subject to the limitations of liability set forth in Article 20, shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under this Agreement, including those under Section 13.2. During any Minimum Acceptance Criteria Correction Period, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under this Agreement, so long as such access does not unreasonably interfere with operation of the Work or the Existing Facility and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

B. ***MCHE Replacement Scenario***. Notwithstanding anything to the contrary in Section 11.4A, if (i) achievement of the LNG Production Rate MAC is the only condition remaining for the achievement of Substantial Completion, (ii) the Performance Test for the LNG Production Rate results in an LNG Production Rate of at least ninety-six percent (96%) (or greater) of the LNG Production Rate MAC and (iii) using GECP, Contractor determines that an underperforming MCHE is the sole Defect preventing achievement of the LNG Production Rate MAC and that such Defect is only capable of being corrected by replacing the Defective MCHE with a new MCHE (collectively,

clauses (i) – (iii) being a "***MCHE Replacement Scenario***"), then this Section 11.4B shall set forth the rights and obligations of the Parties with respect to Contractor's obligation to achieve the Minimum Acceptance Criteria by replacing the MCHE. For purposes of clarity, if any one of the above three (3) conditions is not met for the MCHE Replacement Scenario, or if Owner does not provide the MCHE Replacement Scenario Verification Notice (described below), the Parties' rights and obligations with respect to a failure to meet the Minimum Acceptance Criteria are as set forth in Section 11.4A.

1. If Contractor determines that a MCHE Replacement Scenario has occurred, it will provide written notice to Owner with sufficient evidence for Owner to objectively verify that a MCHE Replacement Scenario has occurred. Such written notice shall be accompanied by a Substantial Completion Certificate in the form of Attachment M, modified in a manner acceptable to Owner, identifying the occurrence of an MCHE Replacement Scenario but certifying that all other aspects of Substantial Completion have been achieved. Owner shall respond to Contractor's written notice within ten (10) Days after Owner's receipt of such notice being provided in accordance with this Section 11.4B.1, and Owner's response will either verify that a MCHE Replacement Scenario has occurred (the "***MCHE Replacement Scenario Verification Notice***") or provide an explanation, in reasonable detail, as to why the MCHE Replacement Scenario has not occurred. If Owner provides an MCHE Replacement Scenario Verification Notice to Contractor, Contractor shall promptly develop a plan for Owner's approval (not to be unreasonably withheld) for ordering and installing a new MCHE to replace the Defective MCHE on a timely basis.

2. If Owner provides the MCHE Replacement Scenario Verification Notice, Contractor shall install, commission and test the new MCHE, and Contractor shall cause the LNG Production Rate MAC to be achieved, within twenty-five (25) months after the earlier of (a) order placement of the replacement MCHE and (b) the Guaranteed Substantial Completion Date (such 25-month time period being the "***Replacement Timeline***"). To the extent that Substantial Completion Delay Liquidated Damages would be assessed against Contractor during the Replacement Timeline in accordance with Section 13.2A, such Substantial Completion Delay Liquidated Damages shall be temporarily suspended and, in lieu thereof, the MCHE Replacement Delay Liquidated Damages shall apply as follows:

(i) for an LNG Production Rate equal to ninety-six percent (96%) of the LNG Production Rate MAC, liquidated damages of Forty Thousand U.S. Dollars (U.S.$40,000) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(ii) for an LNG Production Rate equal to one hundred percent (100%) of the LNG Production Rate MAC, liquidated damages of Zero U.S. Dollars (U.S.$0) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE); and

(iii) for an LNG Production Rate falling between 96% of the LNG Production Rate MAC and 100% of the LNG Production Rate MAC, liquidated damages shall be linearly proportional between the two points created by clauses (i) and (ii) above and such liquidated damages shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(collectively, the foregoing liquidated damages shall be considered the "***MCHE Replacement Delay Liquidated Damages***"). For purposes of clarity, the MCHE Replacement Delay Liquidated Damages are subject to the limitation on Contractor's liability for Delay Liquidated Damages set forth in Section 20.3.

3. If, during the Replacement Timeline, the LNG Production Rate increases from the rate determined by the LNG Production Rate Performance Test used to initially determine the MCHE Replacement Delay Liquidated Damages (as evidenced by a subsequent LNG Production Rate Performance Test or as mutually agreed by the Parties through actual measurements and/or calculations), the MCHE Replacement Delay Liquidated Damages shall be reduced in accordance with Section 11.4B.2 above.

4. MCHE Replacement Delay Liquidated Damages shall cease to be assessed against Contractor upon the earlier of (a) the end of the Replacement Timeline and (b) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE). If, at such time, Substantial Completion has not been achieved, and the Guaranteed Substantial Completion Date has passed, Substantial Completion Delay Liquidated Damages (as applicable) shall be assessed against Contractor in accordance with Section 13.2 until Substantial Completion is achieved.

5. During the Replacement Timeline, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under the Agreement and replace the Defective MCHE with the replacement MCHE, so long as such access does not unreasonably interfere with operation of the Work or the Existing Facility and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case

Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

6. If Owner verifies that a MCHE Replacement Scenario has occurred, Owner shall accompany its MCHE Replacement Scenario Verification Notice provided pursuant to Section 11.4B.1 with a written provisional acceptance of the Substantial Completion Certificate, modified in accordance with Section 11.4B.1 (such provisional acceptance being a "***Provisional Substantial Completion***"). Upon acceptance by Owner of Provisional Substantial Completion, (a) risk of loss shall transfer to Owner pursuant to Section 8.2B as if Substantial Completion had been achieved, (b) the Defect Correction Period, and Contractor's obligations to perform Corrective Work, shall commence as further described in the definition of "Defect Correction Period" and Article 12 and (c) Contractor's liability for damage or destruction of any Equipment of the Train 1 Expansion shall be set forth pursuant to Section 20.2 as if such Equipment had achieved Substantial Completion. In addition, upon providing Provisional Substantial Completion and notwithstanding Sections 11.8 and 11.9, Owner shall take over care, custody and control of the operations and maintenance of the Train 1 Expansion as if it had achieved Substantial Completion. Other than as set forth in this Section 11.4B.6, however, all of Contractor's and Owner's other rights and obligations under this Agreement shall remain in force as if Substantial Completion has not been achieved, including maintaining the amounts under the Letter of Credit as if the Train 1 Expansion had not yet achieved Substantial Completion. Further, the Defect Correction Period of any Work performed after Provisional Substantial Completion (including the replacement MCHE) shall commence upon achievement of Substantial Completion and shall continue for a period of eighteen (18) months after achievement of Substantial Completion (and the thirty (30) month period in Section 12.3B shall also run from Substantial Completion of the Train 1 Expansion).

7. Notwithstanding any acceptance by Owner of Provisional Substantial Completion in accordance with this Section 11.4B, in the event that the replacement MCHE fails to achieve the LNG Production Rate MAC, Owner shall have the rights, and Contractor shall have the obligations, set forth in Section 11.4A (except that in such case the Minimum Acceptance Correction Period(s) will have been deemed to have already expired).

11.5 **Punchlist**.

A. ***Punchlist for RFSU.*** Prior to RFSU for each system or subsystem of Equipment or the Work, Owner and Contractor shall inspect such Work, and Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the

proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve RFSU. Upon Contractor's completion or correction of any items necessary to achieve RFSU and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for such system or subsystem of Equipment or the Work up to RLFC.

B. ***Punchlist for RLFC.*** After RFSU and prior to RLFC, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed updated, revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, revised Punchlist or otherwise that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that the Train 1 Expansion will achieve RLFC. Upon Contractor's completion or correction of any items necessary to achieve RLFC, and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items up to Substantial Completion.

C. ***Punchlist for Substantial Completion***. After RLFC and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist (as modified by any Owner additions), including agreement on the reasonable cost to perform such Punchlist Work, such Punchlist shall govern Contractor's performance of the Punchlist items up to Final Completion; *provided, however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of the Agreement. Provided Owner gives Contractor access to the Facility as set forth below, all Work on the Punchlist shall be completed no later than sixty (60) Days after achievement

of Substantial Completion (or such longer period of time as the Parties may mutually agree in writing), or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work at the expense of Contractor. In the event Owner elects to complete such Punchlist Work, Contractor shall immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs and expenses incurred in performing such Punchlist Work, not to exceed one hundred fifty percent (150%) of the agreed cost to perform such Punchlist Work. If Contractor performs any Punchlist Work, Owner shall provide Contractor with reasonable access to the Facility, and will de-energize and de-pressure the applicable Equipment sufficient for Contractor to perform its Punchlist activities, so long as such activities do not unreasonably interfere with the operation of the Facility and subject to any reasonable security and safety requirements of Owner.

11.6 **Notice and Requirements for Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within ten (10) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice. If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice (or within such additional time as mutually agreed to by the Parties in writing), Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18, subject to the Parties' rights and obligations under Section 11.5C.

11.7 **Partial Occupancy**. Prior to Contractor's achieving Substantial Completion, Owner, upon providing thirty (30) Days' written notice to Contractor specifying the occupation it intends to assume, may occupy all or any portion of the buildings for the Train 1 Expansion then capable of being safely occupied, *provided that*, such occupancy is authorized by the Governmental Instrumentality (to the extent such authorization is necessary) and Owner's insurance company or companies providing property insurance and builder's risk coverage have consented to such partial occupancy (to the extent such consent is necessary). Contractor shall assist Owner and take reasonable steps in obtaining consent of the insurance company or companies and applicable Government Instrumentalities. Immediately prior to such partial occupancy, Owner and Contractor shall jointly inspect the building to be occupied in order to determine and record the condition of the building and all personnel and environmental safety aspects of the building. Without limitation of the foregoing, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is occupying a building (or portion thereof). For any building (or portion thereof) that Owner occupies pursuant to this Section 11.7, the Defect Correction Period for that building (or portion thereof) shall commence upon Owner's occupancy of such building (or portion thereof) and the risk of loss for such building (or portion

thereof) shall transfer to Owner, notwithstanding Section 8.2A; *provided that*, the risk of loss shall not transfer, and the Defect Correction Period shall not commence, for any Equipment housed within such building or portion thereof (other than HVAC and lighting).

11.8 **Operations Activities**. Prior to Substantial Completion of the Train 1 Expansion, but after RLFC has been achieved, Contractor shall, to the extent reasonably possible, assist Owner in the operations and maintenance of the Train 1 Expansion in accordance with Owner's reasonable requests and all Permits, including with respect to the performance of activities in connection with (i) the berthing of LNG Tankers and loading of LNG; (ii) the receipt of natural gas feed; (iii) producing LNG; and (iv) such other activities as reasonably requested by Owner (each, an "***Operations Activity***" and, collectively, the "***Operations Activities***"). Contractor shall not have the obligation to follow Owner's requests for any Operations Activity if such Operations Activity adversely impacts Performance Testing or repairs to the Train 1 Expansion or impacts the ability to safely operate the Train 1 Expansion in accordance with the requirements of this Agreement. Contractor shall promptly provide notice to Owner informing Owner whether it can comply with Owner's requests and the reason if it cannot so comply. Contractor's performance of the Operations Activities shall not in any way release Contractor from any obligations or liabilities pursuant to this Agreement, including its obligations to meet Substantial Completion and Final Completion. Notwithstanding anything to the contrary in this Section, any restrictions concerning Operations Activity shall not apply to the scheduling and berthing of LNG Tankers or the loading or unloading of LNG to or from the LNG Tankers after any LNG Tankers have been called or scheduled.

11.9 **LNG Tankers Calling on the Facility**. Subject to Section 11.8, Contractor acknowledges that certain Operations Activities may involve the berthing, loading or unloading of LNG Tankers (other than the LNG Tankers calling on the Facility for the first load of the Train 1 Expansion or for Performance Testing). Owner shall give Contractor at least fourteen (14) Days prior written notice of the berthing, loading or unloading of such LNG Tankers. Owner and Contractor shall develop a written plan to avoid or minimize impacts, if any, to the Work which would be caused by the berthing, loading or unloading of such LNG Tankers.

11.10 **Long-Term Obligations**. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of RFSU, RLFC, Substantial Completion or Final Completion, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations, any liabilities for which insurance is required or any other responsibility of Contractor, including the payment of any and all fines and penalties assessed as a result of Contractor's failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 11 shall in any way modify or alter Contractor's obligations under Article 12 and Article 13 hereof.

ARTICLE 12
WARRANTY AND CORRECTION OF WORK

12.1 **Warranty**.

A. ***General***. The warranties set forth in this Article 12 (collectively, the "***Warranty***" or "***Warranties***") are in addition to any of the Minimum Acceptance Criteria or Performance Guarantees set forth in this Agreement. Any Work, or component thereof, that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

B. ***Warranty of Work***. Contractor hereby warrants that the Work, including Equipment, and each component thereof shall be:

1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;

2. in accordance with all of the requirements of this Agreement, including in accordance with GECP, Applicable Law and Applicable Codes and Standards;

3. free from encumbrances to title, as set forth in greater detail in Section 8.1;

4. free from defects in design, material and workmanship; *provided that*, tolerances in material and workmanship allowable by Applicable Law or Applicable Codes and Standards shall not be considered a defect unless the Scope of Work sets forth stricter tolerances; and

5. with respect to Equipment or any component of Equipment, unless otherwise specifically agreed in writing by Owner by Change Order, composed and made of only proven technology, of a type in commercial operation at the Effective Date of this Agreement, with conditions substantially similar to those contained herein; *provided that* Owner's agreement for Contractor to use any Equipment not in compliance with this Section 12.1B.5 shall not relieve Contractor of any of its obligations under this Agreement.

C. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work. All such warranties shall be deemed to run to the benefit of Owner and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall

be enforceable by Owner upon Substantial Completion (except for the Work on the Expansion Facility Dock, in which such warranties shall be assigned to, and enforceable by, Owner upon the earlier of achievement of Final Completion under this Agreement or achievement of substantial completion of the Expansion Facility Dock under the Train 2 EPC Agreement). All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 12 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument.

D. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by Owner; (ii) operation, maintenance or use of Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Contractor to Owner; (iii) normal wear and tear; or (iv) erosion or corrosion as a result of environmental elements not reasonably expected given the location of the Site.

12.2 **Correction of Work Prior to Substantial Completion**.

A. ***General Rights***. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon receipt of such written notice, Contractor shall, at its own expense, promptly correct such Defective Work, whether by repair, replacement or otherwise. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such dispute. If it is later determined that the Work was not Defective, then Owner shall reimburse Contractor for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact the repair or replacement may have had on the Train 1 Project Schedule. If Contractor fails, after a reasonable period of time not to exceed one (1) week, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor may repair or replace such Defective Work and the expense thereof shall be paid by Contractor; *provided, however*, if the Defective Work materially affects the operation or use of the Existing

Facility or the Train 1 Expansion after it has achieved RLFC, or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty-four (24) hours after receipt of notice of such Defective Work, and thereafter continue to proceed diligently to complete the same, or Owner may repair or replace such Defective Work and the expense thereof shall be paid by Contractor.

B. ***Witness Points***. Contractor shall provide Owner a proposed list of witness points for each item of Equipment for Owner's review and prior written approval no later than thirty (30) Days' after placement of the applicable Subcontract for such item of Equipment, and Owner shall notify Contractor which of the witness points it wishes its personnel to witness. Contractor shall provide Owner with at least thirty (30) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Owner's right of inspection as set forth herein applies only to its witnessing of witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion on the Work (including Equipment) at any time in its sole discretion and in accordance with this Agreement.

C. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 12.2A and 12.2B shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

D. ***Cost of Disassembling***. 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 Owner if such Work is found to conform with the requirements of this Agreement and by Contractor if such Work is found to be Defective.

12.3 **Correction of Work After Substantial Completion**. If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work, whether by repair, replacement or otherwise, including any and all obligations in connection with such repair, replacement or otherwise, such as in and out costs, storage, labor, Taxes, transportation and expediting costs and any other costs necessary to fully correct the Work (collectively, the "***Corrective Work***"). Owner shall provide Contractor with access to the Facility, and will de-energize and de-pressure the applicable Equipment, sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the construction or operation of the Facility and subject to any reasonable security or safety requirements of Owner. In the event Contractor utilizes spare parts owned by Owner in the course of performing the Corrective Work, Contractor shall supply Owner free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by Contractor as soon as possible following the utilization of such spare parts. Unless otherwise allowed by Owner in writing,

Contractor will maintain at least one (1) Contractor's representative at the Site during the Defect Correction Period to assist in coordinating the resolution of any Defective Work.

A. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (including notification to Owner of its implementation plan to perform the Corrective Work) within a reasonable period of time not to exceed five (5) Days after receipt of Owner's written notice to Contractor identifying and describing with reasonable specificity that portion of Work that is Defective, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work, and Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses; *provided, however*, if any Defective Work materially affects the construction, operation or use of any of the Work or the Facility or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work without giving prior written notice to Contractor, and, in such event, Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses.

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.

C. ***Standards for Corrective Work***. All Corrective Work shall be performed subject to the same terms and conditions under this Agreement as the original Work is required to be performed. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Owner.

D. ***No Limitation***. Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the Defect Correction Period relates only to the specific obligation of Contractor to perform Corrective Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work.

12.4 **Assignability of Warranties**. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

12.5 **Waiver of Implied Warranties**. EXCEPT FOR ANY EXPRESS WARRANTIES UNDER THIS AGREEMENT (INCLUDING THE WARRANTIES), THE PARTIES HEREBY DISCLAIM ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY IMPLIED WARRANTY OF HABITABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 13
GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

13.1 **Guarantee of Timely Completion**. Contractor specifically acknowledges that time is of the essence as to the Guaranteed Substantial Completion Date, Guaranteed Record As-Built Delivery Date and the dates for when Contractor is required to be ready under this Agreement to load the LNG Tanker for RLFC.

13.2 **Delay Liquidated Damages**.

A. ***Delay in Substantial Completion***. If Substantial Completion occurs after the Guaranteed Substantial Completion Date, Contractor shall pay to Owner the amounts listed in Attachment E per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Substantial Completion Delay Liquidated Damages***").

B. ***Delay in Achieving Record As-Built Delivery Requirement***. If the Record As-Built Delivery Requirement occurs after the Guaranteed Record As-Built Delivery Date, Contractor shall pay to Owner Ten Thousand Dollars per Day for each Day, or portion thereof, of delay until the Record As-Built Delivery Requirement is achieved (the "***Record As-built Delivery Requirement Delay Liquidated Damages***").

C. ***RLFC Delay Liquidated Damages***. RLFC Delay Liquidated Damages shall be assessed in accordance with Section 11.1D and paid in accordance with Section 13.2E.

D. ***MCHE Replacement Delay Liquidated Damages***. MCHE Replacement Delay Liquidated Damages shall be assessed in accordance with Section 11.4B.2 and paid in accordance with Section 13.2E.

E. ***Payment of Delay Liquidated Damages***. With respect to any Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within thirty (30) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages. In addition, with respect to the achievement of Substantial Completion, Contractor shall pay Owner all Delay Liquidated Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

13.3 **Schedule Bonus**. Contractor shall be entitled to a bonus in the amount of Five Hundred Thousand U.S. Dollars (U.S.$500,000) per Day for each Day that Contractor achieves Substantial Completion before the Schedule Bonus Date; *provided that* (i) the maximum bonus

payable under this Section 13.3 shall be Seventy-Five Million U.S. Dollars (U.S.$75,000,000) and (ii) the bonus payable under this Section 13.3 shall be reduced in the amount of the sum of any claims by Owner against Contractor, any claims by Contractor against Owner or any liens against the Site that are brought by Contractor or any Subcontractors or Sub-subcontractors, if such claims are not resolved as of the date of Final Completion. Any bonus owed under this Section 13.3 shall be paid by Owner within thirty (30) Days after Final Completion and Owner receiving an invoice for such bonus.

ARTICLE 14
CONTRACTOR'S REPRESENTATIONS

Contractor, CB&I and Zachry represent and warrant, as applicable, that:

14.1 **Corporate Standing**. Contractor is a joint venture duly organized, validly existing and in good standing under the laws of the State of Texas; CB&I is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas; Zachry is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; and each is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

14.2 **No Violation of Law; Litigation**. Each is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best of its knowledge) threatened against Contractor, CB&I or Zachry that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, CB&I or Zachry, or the ability of any of them to perform under this Agreement.

14.3 **Licenses**. Contractor is either the holder of all Permits, or will acquire all Permits required to permit it to operate or conduct its business as required by Section 3.12.

14.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the charter or by-laws of Contractor, CB&I or Zachry, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor, Zachry or CB&I is a party or by which any of them are bound or to which any of them are, or any of their property or assets is, subject, or constitute a default under any such agreement or instrument.

14.5 **Corporate Action**. Each has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of each; and this Agreement has been duly and validly executed and delivered by each and constitutes a legal,

valid and binding obligation of Contractor, CBI and Zachry enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

14.6 **Financial Solvency**. Each is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Each Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.16 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.16.

ARTICLE 15
OWNER'S REPRESENTATIONS

Owner represents and warrants that:

15.1 **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2 **No Violation of Law; Litigation**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.3 **Licenses**. It is the holder of (or is a beneficial user of) or will take the necessary action to obtain, or cause to be obtained, all Permits under Attachment Q.

15.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the operating agreement or by-laws of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.5 **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the

enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.6 **Financing and Payment**. Owner has obtained financing, or will obtain financing prior to or upon issuance of NTP, from one or more Lenders to enable it to pay all debts as they mature and perform its payment obligations under this Agreement.

ARTICLE 16
DEFAULT, TERMINATION AND SUSPENSION

16.1 **Default by Contractor**.

A. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) repeatedly fail to prosecute the Work in a diligent, efficient, workmanlike, skillful and safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) effect an Abandonment of the Train 1 Project; (iv) repudiate any of its material obligations under the Agreement; (v) repeatedly fail to use an adequate amount or quality of personnel or equipment to perform and complete the Train 1 Project without delay; (vi) be in Default pursuant to Section 5.4F, 11.4A or 21.7; (vii) fail to maintain insurance required under this Agreement; (viii) fail to provide or maintain the Letters of Credit or the Parent Guarantee in accordance with Section 9.2 or Section 21.16, respectively; (ix) fail to discharge or bond liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (x) cause, by any action or omission, any material stoppage or delay of or interference with the operations of the Existing Facility, except as allowed under Section 3.25; (xi) fail to make payment to Subcontractors for labor or materials owed in accordance with the respective Subcontracts; (xii) disregard Applicable Law or Applicable Codes and Standards; (xiii) fail to comply with any material provision of this Agreement; or (xiv) itself or the Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection (each of the foregoing being a "***Default***") then (following Owner's written notice to Contractor specifying the general nature of the Default, unless Contractor cures such condition within the applicable Cure Period, if any, set forth below) Owner, at its sole option and without prejudice to any other rights that it has under this Agreement, but remaining subject to the limitations of liability set forth in Article 20, may (1) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all reasonable, additional costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation expenses) incurred by Owner in connection therewith, (2) terminate for Default Contractor's performance of all or any part of the Work, or (3) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Notwithstanding the foregoing, Owner shall not be entitled to terminate Contractor as a result of a delay in achieving Substantial Completion during the first six (6) months after the Guaranteed Substantial Completion Date; *provided that* Owner shall be entitled to terminate Contractor prior to the expiration of such six (6) month period if (i) Contractor is not paying to Owner when owed Delay Liquidated Damages during such six (6) month period

or Contractor is not diligently performing the Work and (ii) Owner is otherwise entitled to terminate Contractor under this Section 16.1A. In addition, Owner shall not be entitled to terminate Contractor for anticipatory delay in achieving Substantial Completion unless, based on the current progress of the Work, Contractor is projected to achieve Substantial Completion six (6) months or more beyond the Guaranteed Substantial Completion Date, *provided that* Owner shall be entitled to terminate Contractor at any time if Contractor is not diligently performing the Work and Owner is otherwise entitled to terminate Contractor under this Section 16.1A.

1. Contractor shall have the following time periods to cure Defaults identified by Owner pursuant to Section 16.1A (as applicable, the "***Cure Period***"): (A) for items (i), (ii), (iii), (iv), (v), (x), and (xiii) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default, *provided that*, if, due to the nature of the Default, it cannot be cured by exercising all practicable diligence within such 30-Day period, Contractor shall cure the Default as soon as reasonably practicable but, in any event, not more than sixty (60) Days after receipt of written notice from Owner of the Default (unless otherwise expressly agreed upon by the Parties in writing); (B) for items (vii), (viii), (ix), (xi) and (xii) in Section 16.1A, Contractor shall cure the Default within fourteen (14) Days after receipt of written notice from Owner of such Default; (C) for a Default pursuant to Section 5.5H via item (vi) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default; (D) for a Default pursuant to item (xiv) in Section 16.1A or pursuant to Section 11.4A via item (vi) in Section 16.1A, no Cure Period shall be provided and Owner's right to terminate shall be exercisable immediately upon Contractor being provided written notice of Default; and (E) for a Default pursuant to Section 21.7 via item (vi) in Section 16.1A, Contractor shall cure the Default within five (5) Business Days after receipt of written notice from Owner of such Default.

B. ***Additional Rights of Owner Upon Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1A, then Owner may, at its sole option, (i) enter onto the Site and, for the purpose of completing the Work, take possession of all equipment, tools, supplies, scaffolding and machinery rented by Contractor and all Equipment, Books and Records and Work Product, (ii) take assignment of any or all of the Subcontracts, and/or (iii) complete the Work either itself or through others. If the unpaid balance of the Contract Price shall exceed all damages, costs, losses and expenses incurred by Owner (including all attorneys' fees, consultant fees and litigation expenses, costs to complete the Work, Delay Liquidated Damages and any and all damages for failure of performance and cost of financing or interest on such expense from the date such expense was incurred by Owner at the rate specified in Section 7.7), then such excess shall be paid by Owner to Contractor, but such amount shall not be paid until after Final Completion has been achieved. If such amount incurred by Owner shall exceed the unpaid balance of the Contract Price, then, at Owner's sole option, Contractor shall pay Owner the difference within thirty (30) Days after written notice of the demand, or Owner shall have the right and authority to offset or collect on the Letter of Credit in the amount of such difference. Subject to Article 20, Contractor's liability under this

Section 16.1B is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination for Default, including the obligations to act reasonably promptly in replacing Contractor with a substitute contractor. In the event of a termination for Default, the Parties agree that Owner shall be entitled to all damages, losses and reasonable costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages; *provided that* Contractor's maximum liability under this Article 16 is limited by the limitations of liability set forth in Article 20, including, for Delay Liquidated Damages, as provided by Section 20.3A. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for purposes of this Section 16.1B, and with respect to Substantial Completion that was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion or, using GECP, should have achieved Substantial Completion under the circumstances.

C. ***Obligations Upon Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) inventory, maintain and turn over to Owner all equipment, machinery, materials, tools, supplies and scaffolding rented by Contractor or provided by Owner for performance of the terminated Work, (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations under Section 16.1B.

16.2 **Termination for Convenience by Owner**. Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts, (iv) assist Owner in the maintenance, protection, and disposition of Work in progress, (v) cooperate with Owner for the efficient transition of the

Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards and Owner may, at its sole option, take assignment of any or all of the Subcontracts. Contractor shall be paid (1) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement) prior to termination, less that portion of the Contract Price previously paid to Contractor (including down payments, if any, made under this Agreement), plus (2) reasonable close-out costs (plus profit and general and administrative expenses for such costs) submitted in accordance with this Section, plus (3) reasonable costs (plus profit and general and administrative expenses for such costs) for demobilizing Contractor, Subcontractor and Sub-subcontractor personnel, construction equipment and temporary facilities from the Site to their point of origin, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable close-out and demobilization costs to Owner for verification and audit within one hundred twenty (120) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of One Hundred U.S. Dollars (U.S.$100) for its undertaking to perform. With respect to payments regarding Payment Milestones, the Parties recognize and agree that the amount and timing of the Payment Milestone payments have been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under the Payment Milestones. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for such Payment Milestones performed but instead shall be entitled to the value of the Work actually performed.

16.3 **Suspension of Work**. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Expansion Facility Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the Train 1 Project Schedule if and to the extent permitted under Section 6.9. Upon receipt of notice to resume suspended Work, Contractor shall promptly resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 **Suspension by Contractor**. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, subject to Owner's right to withhold or offset payment to Contractor under this Agreement, if Owner fails to pay undisputed amounts due and owing to Contractor and Owner has failed to cure such failure within thirty (30) Days following Contractor's written notice to Owner to cure such failure, Contractor may suspend performance of the Work until Contractor receives such undisputed amounts. Contractor shall be entitled to a Change Order for any costs incurred by Contractor resulting from such suspension and shall be entitled to an extension in the Train 1 Project Schedule to the extent permitted under Section 6.9.

16.5 **Termination by Contractor**. Contractor may terminate this Agreement if, continuing at the time of such termination, Contractor has stopped the performance of all Work under this Agreement pursuant to Section 16.4 for thirty (30) Days, and after the expiration of such thirty (30) Day period, Contractor gives Owner written notice specifying the nature of the default and its intent to terminate the Agreement, and Owner fails to cure such default within thirty (30) Days after receipt of Contractor's notice. In the event of any such termination under this Section 16.5, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 in the event of an Owner termination for convenience. This Section 16.5 and Sections 16.6 and 21.7 set forth Contractor's only rights to terminate this Agreement.

16.6 **Termination Due to Extended Force Majeure**. Contractor may terminate this Agreement by providing written notice to Owner of its intent to terminate the Agreement in the event a single event of Force Majeure prevents performance of all of the Work for a period of time in excess of ninety (90) Days, unless prior to the expiration of such ninety (90) Day period Owner agrees to pay Contractor's reasonable standby costs incurred by Contractor after the expiration of such ninety (90) Days, which shall be documented by Change Order. If Owner agrees to pay such reasonable standby costs and commences paying such reasonable standby costs, then Contractor shall not be entitled to terminate the Agreement until the expiration of a total of three hundred sixty-five (365) Days. In the event of any termination under this Section 16.6, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 regarding a termination for convenience.

ARTICLE 17
INDEMNITIES

17.1 **General Indemnification**. IN ADDITION TO ITS INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS CONTAINED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND OWNER INDEMNIFIED PARTIES FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY OF THE FOLLOWING:

A. ACTUAL OR ALLEGED FAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT;

B. SUBJECT TO SECTIONS 17.4 AND 19.2A, ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B;

C. ACTUAL OR ALLEGED CONTAMINATION, SPILL, RELEASE, DISCHARGE OR POLLUTION ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ONTO THE SITE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, OR ANY INCREASED CONTAMINATION OR POLLUTION CAUSED BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR DUE TO THE FAILURE TO STOP WORK UPON DISCOVERING ANY PRE-EXISTING HAZARDOUS MATERIALS WHICH CONTRACTOR OR SUCH SUBCONTRACTOR OR SUB-SUBCONTRACTOR KNOWS OR REASONABLY SUSPECTS TO BE HAZARDOUS MATERIAL;

D. CLAIMS BY ANY GOVERNMENTAL INSTRUMENTALITY AS A RESULT OF A FAILURE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TO PAY TAXES FOR WHICH IT IS RESPONSIBLE UNDER THIS AGREEMENT;

E. FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT; OR

F. BODILY INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO THE WORK, TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

17.2 **Injuries to Contractor's Employees and Damage to Contractor's Property**. NOTWITHSTANDING THE PROVISIONS OF SECTION 17.1F, CONTRACTOR SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR OR SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY EMPLOYEE, OFFICER OR DIRECTOR OF ANY OF THEM, REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF AN OWNER INDEMNIFIED PARTY.

17.3 **Injuries to Owner's Employees and Damage to Owner's Property**. OWNER SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS, DIRECTORS OF ANY OWNER INDEMNIFIED PARTY OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF OWNER INDEMNIFIED PARTIES (EXCLUDING THE WORK, THE EXPANSION FACILITY AND THE EXISTING FACILITY), REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF ANY CONTRACTOR INDEMNIFIED PARTY.

17.4 **Owner's Patent and Copyright Indemnification**. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS ATTRIBUTABLE TO PROCESSES PRACTICED BY OWNER IN THE OPERATION OF THE EXISTING FACILITY, UNLESS SUCH PROCESS IS UNDERTAKEN AS REQUIRED IN WRITING BY CONTRACTOR (OR REQUIRED UNDER THE SCOPE OF WORK) TO FACILITATE THE PERFORMANCE OF THE WORK OR THE OPERATION OF THE EXPANSION FACILITY.

17.5 **Contractor's Patent and Copyright Indemnification**. IN THE EVENT THAT ANY SUIT, CLAIM, TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IS GRANTED IN CONNECTION WITH SECTION 17.1B, CONTRACTOR SHALL, IN ADDITION TO ITS OBLIGATION UNDER SECTION 17.1B, 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, CONTRACTOR SHALL PROMPTLY MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE, AT NO COST TO OWNER, AUTHORIZING CONTINUED USE OF THE INFRINGING WORK. IF CONTRACTOR IS UNABLE TO SECURE SUCH A LICENSE WITHIN A REASONABLE TIME, CONTRACTOR 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. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B.

17.6 **Lien Indemnification**. SHOULD ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY OTHER PERSON ACTING THROUGH OR UNDER CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR FILE A LIEN OR OTHER ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE WORK, THE SITE OR THE FACILITY, CONTRACTOR SHALL, AT ITS SOLE COST AND EXPENSE, REMOVE AND DISCHARGE, BY PAYMENT, BOND OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE WITHIN TWENTY (20) DAYS AFTER THE FILING OF SUCH LIEN OR ENCUMBRANCE, *PROVIDED THAT*, OWNER HAS MADE PAYMENT TO CONTRACTOR OF ALL UNDISPUTED AMOUNTS OWED TO CONTRACTOR IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF CONTRACTOR FAILS TO

REMOVE AND DISCHARGE ANY SUCH LIEN OR ENCUMBRANCE WITHIN SUCH TWENTY (20) DAY PERIOD, THEN OWNER MAY, IN ITS SOLE DISCRETION AND IN ADDITION TO ANY OTHER RIGHTS THAT IT HAS UNDER THIS AGREEMENT, AT LAW OR EQUITY, TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

A. REMOVE AND DISCHARGE SUCH LIEN AND ENCUMBRANCE USING WHATEVER MEANS THAT OWNER, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE, INCLUDING THE PAYMENT OF SETTLEMENT AMOUNTS THAT IT DETERMINES IN ITS SOLE DISCRETION AS BEING NECESSARY TO DISCHARGE SUCH LIEN OR ENCUMBRANCE. IN SUCH CIRCUMSTANCE, CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES, AND SETTLEMENT PAYMENTS) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH REMOVAL AND DISCHARGE. ALL SUCH DAMAGES, COSTS, LOSSES AND EXPENSES SHALL BE PAID BY CONTRACTOR NO LATER THAN THIRTY (30) DAYS AFTER RECEIPT OF EACH INVOICE FROM OWNER;

B. SEEK AND OBTAIN AN ORDER GRANTING SPECIFIC PERFORMANCE FROM A COURT OF COMPETENT JURISDICTION, REQUIRING THAT CONTRACTOR IMMEDIATELY DISCHARGE AND REMOVE, BY BOND, PAYMENT OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE. THE PARTIES EXPRESSLY AGREE THAT OWNER SHALL BE ENTITLED TO SUCH SPECIFIC PERFORMANCE AND THAT CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH SPECIFIC PERFORMANCE ACTION. CONTRACTOR AGREES THAT THE FAILURE TO DISCHARGE AND REMOVE ANY SUCH LIEN OR ENCUMBRANCE WILL GIVE RISE TO IRREPARABLE INJURY TO OWNER AND OWNER'S AFFILIATES, AND FURTHER, THAT OWNER AND SUCH OWNER AFFILIATES WILL NOT BE ADEQUATELY COMPENSATED BY DAMAGES; OR

C. CONDUCT THE DEFENSE OF ANY ACTION IN RESPECT OF (AND ANY COUNTERCLAIMS RELATED TO) SUCH LIENS OR ENCUMBRANCES AS SET FORTH IN SECTION 17.7, WITHOUT REGARD TO CONTRACTOR'S RIGHTS UNDER SUCH SECTION.

17.7 **Legal Defense**. 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 AGREEMENT, 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 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 SECTION 17.7, 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 ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION 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 INTEREST ON SAME FROM THE DATE ANY SUCH COST AND EXPENSE WAS PAID BY SUCH INDEMNIFIED PARTY UNTIL REIMBURSED BY THE INDEMNIFYING PARTY AT THE INTEREST RATE SET FORTH IN THIS AGREEMENT.

17.8 **Enforceability**.

A. EXCEPT AS OTHERWISE SET FORTH ABOVE, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR BODILY INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT 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 17 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

B. OWNER AND CONTRACTOR AGREE THAT THE TEXAS OILFIELD ANTI-INDEMNIFICATION ACT, TEX. CIV. PRAC. & REM. CODE ANN. §§ 127.001-005, TEX. CIV. PRAC. & REM. CODE ANN. §§ 130.001-005 AND TEX. INS. CODE ANN. CHAPTER 151 ARE 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, EACH PARTY HEREBY AGREES TO 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 CONTRACTOR AGREES THAT THE CONTRACT PRICE COMPENSATES CONTRACTOR FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THE AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

C. 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. EACH PARTY ACKNOWLEDGES SPECIFIC PAYMENT OF TEN AND NO/100 U.S. DOLLARS (U.S. $10.00) AS LEGAL CONSIDERATION FOR THE INDEMNITY OBLIGATIONS AS MAY BE PROVIDED IN THIS AGREEMENT.

ARTICLE 18
DISPUTE RESOLUTION

18.1 **Negotiation**. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement) ("***Dispute***") cannot be resolved informally within fifteen (15) Days after the Dispute arises, or such longer period of time as mutually agreed to in writing by the Parties, either Party may give written notice to the other Party requesting that a representative of Owner's senior management and Contractor's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such notice, or such longer period of time as mutually agreed to in writing by the Parties, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 18.1 be construed to limit either Party's right to take any action under this Agreement, including Owner's rights under Section 16.1.

18.2 **Mediation**. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) Days of receipt of the notice set forth in Section 18.1, then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other Party requesting such mediation, which shall be held in Houston, Texas, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) Days after the date written notice of mediation is received, either Party may petition the American Arbitration Association ("***AAA***") for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the AAA's Construction Industry Arbitration Rules and Mediation Procedures then in effect. The mediation shall be concluded within forty-five (45) Days after receipt of the mediation request, unless the Parties agree otherwise. The Parties and the mediator shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (i) views expressed or suggestions made by either Party with respect to a possible settlement of the Dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement made by the mediator. With respect to expenses related to mediation, the expenses of witnesses for either Party shall be paid by the Party producing such witnesses; all other expenses of mediation, including required traveling, fees and other expenses of the mediator, shall be borne equally by the Parties unless otherwise agreed by the Parties. Mediation is an absolute condition precedent to litigation, except (i) to the extent necessary to avoid statute of limitation issues or to preserve bond rights, (ii) if another Dispute is already subject to litigation pursuant to this Article or (iii) if a dispute under the Train 2 EPC Agreement is already

subject to litigation pursuant to its terms and the Dispute hereunder is related to such Train 2 EPC Agreement dispute.

18.3 **Litigation**. In the event that the Dispute is not resolved by mediation within forty-five (45) Days (or such other time agreed upon in writing by the Parties pursuant to Section 18.2) after receipt of the mediation request given in accordance with 18.2, then the Parties agree that such Dispute shall be decided by litigation pursuant to this Section 18.3. Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail in accordance with the notice provisions of this Agreement, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdiction. Nothing herein shall affect the right of any Party to serve legal process in any manner permitted by Applicable Law or affect its right to bring any action that does not arise out of or relate to this Agreement in any other court of competent jurisdiction. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE BETWEEN THE PARTIES OR WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

18.4 **Continuation of Work During Dispute**. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 or 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall the occurrence of any negotiation or litigation prevent or affect Owner from exercising its rights under this Agreement, including Owner's right to terminate pursuant to Article 16.

ARTICLE 19
CONFIDENTIALITY

19.1 **Contractor's Obligations**. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information, whether disclosed prior to or after the Effective Date: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary for such Subcontractor or Sub-subcontractor to perform any Work or (ii) any other information which is conspicuously marked and identified in writing as confidential and relates to the business, products, services, research or development, actual or potential clients or customers, financing of the Train 1 Project, designs, methods, discoveries, trade secrets, research, development or finances of Owner or any Owner Affiliate, or relating to similar information of a third party who has entrusted such information to Owner or any Owner Affiliate (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to

disclosing any Owner's Confidential Information in (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Proprietary Work Product.

19.2 **Owner's Obligations**. Owner hereby covenants and warrants that Owner 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 any of the following information: (i) any estimating, technical or pricing information, methodologies, techniques or know-how of Contractor or its Subcontractors relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor, (ii) any of Contractor's Intellectual Property or Third Party Proprietary Work Product, which is conspicuously marked and identified in writing as confidential by Contractor or (iii) any financial information provided to Owner pursuant to Section 9.4, whether or not marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). Subject to Section 19.2A, the Parties agree that Owner may disclose Contractor's Confidential Information to its Affiliates, partners, underwriters, customers, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and its representatives, Owner's (or Owner's Affiliates') consultants, rating agencies or any other party in relation to project financing for the Train 1 Project, *provided that* Owner binds such Persons to confidentiality obligations similar to those contained in this Section 19.2. Notwithstanding the foregoing (but subject to Section 10.1), in no event shall Owner be restricted in any way from the use or disclosure of the Work Product, and Owner shall be entitled to disclose to Persons that portion of Contractor's Intellectual Property and Third Party Proprietary Work Product for which Owner has a license to the extent such disclosure is consistent with the purposes for which such license is granted pursuant to Section 10.1.

A. Notwithstanding the foregoing rights and obligations set forth in Section 19.2, with respect to Air Products and Chemicals, Inc.'s (APCI) Third Party Proprietary Work Product disclosed to any members of the board of directors of Owner or any of its Affiliates that are employed by ConocoPhillips Company, Owner shall prevent any disclosure of such APCI Third Party Proprietary Work Product to other employees or representatives of ConocoPhillips Company (who are not a member of those boards of directors) or the use of such APCI Third Party Proprietary Work Product by such board member as part of his or her employment with ConocoPhillips Company (other than employment functions related to being a member of such board of directors) and, in the event such unauthorized disclosure or use of APCI Third Party Proprietary Work Product does occur, Owner shall protect, indemnify, defend and hold Contractor Group harmless from and against all claims, demands, causes of action, and suits of every type and character (including intellectual property infringement claims), including reasonable attorney's fees, brought by APCI or ConocoPhillips against Contractor Group and arising out of such unpermitted disclosure or use.

19.3 **Definitions**. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 **Exceptions**. Notwithstanding Sections 19.1 and 19.2, 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 Article 19; (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, other than directly or indirectly disclosed or acquired through the FEED Agreement, or any other agreements between the Parties related to the Train 1 Project; (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, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies, including FERC, in connection with the Facility to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed and, to the extent reasonably capable under Applicable Law and the circumstances surrounding the disclosure, shall provide Disclosing Party with an opportunity to take appropriate steps the Disclosing Party believes are necessary to protect the confidentiality and/or proprietary nature of its Confidential Information.

19.5 **Equitable Relief**. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, 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, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 **Term**. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of ten (10) years following the expiration or earlier termination of this Agreement.

ARTICLE 20
LIMITATION OF LIABILITY

20.1 **Contractor Aggregate Liability**. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of Four Hundred and Thirty Million U.S. Dollars (U.S.$430,000,000) in the aggregate; *provided that*, notwithstanding the foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply in the event of Abandonment of the Train 1 Project by Contractor; (ii) apply to Contractor's indemnification obligations under this Agreement with respect to any claims brought by a third party; (iii) apply

to Contractor's obligation to deliver to FLIQ CF full legal title to and ownership of all or any portion of the Work and the Train 1 Expansion as required under this Agreement; (iv) include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Contractor or any of its Subcontractors or Sub-subcontractors under this Agreement; or (v) apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion for the Train 1 Expansion and the Minimum Acceptance Criteria for the Expansion Facility Dock, and the costs incurred by Contractor in performing the Work shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Contractor, Owner, Lender or their respective Affiliates or member companies.

20.2 **Damage to the Existing Facility and the Train 1 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) for any damages, losses, costs and expenses arising from or related to damage to or destruction of (i) any portion of the Train 1 Expansion (other than Common Systems that do not achieve substantial completion with Substantial Completion of the Train 1 Expansion pursuant to Section 11.2A) occurring after the Train 1 Expansion has achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2B for Existing Facility Modifications at Handover) or (ii) of the Existing Facility, 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 or joint negligence or fault of any Contractor Indemnified Party or Contractor's Subcontractors or Sub-subcontractors. 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, 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*, that Contractor's liabilities assumed under this Section 20.2 shall remain subject at all times to 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 1 Expansion (other than Common Systems that do not achieve substantial completion with Substantial Completion of the Train 1 Expansion pursuant to Section 11.2A) occurring after the Train 1 Expansion achieved

Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2B for Existing Facility Modifications at Handover) or (b) the Existing Facility. Nothing set forth in this Section 20.2 shall relieve or limit Contractor's assumption of the risk of loss of the Train 1 Expansion under Section 8.2. In addition, nothing in this Section 20.2 shall limit Contractor's liability arising from or related to damage to or destruction of (y) the Train 2 Expansion, except Common Systems also forming a portion of the Train 2 Expansion that achieve Substantial Completion under this Agreement or (z) Common Systems that do not achieve Substantial Completion under this Agreement pursuant to Section 11.2A.

A. ***Common Systems Achieving Substantial Completion Under the Train 2 EPC Agreement***. With respect to Common Systems that do not achieve Substantial Completion under this Agreement pursuant to Section 11.2A (but instead achieve substantial completion pursuant to the Train 2 EPC Agreement), Contractor's liabilities and limitation thereof, and Owner's indemnities, releases and waivers, set forth in Section 20.2 shall not apply to any damage to or destruction of such Common Systems until such Common Systems achieve substantial completion pursuant to the Train 2 EPC Agreement; *provided that*, if the Train 2 EPC Agreement is terminated prior to such Common Systems achieving substantial completion pursuant to such Train 2 EPC Agreement, then Contractor's liabilities and limitation thereof, and Owner's indemnities, releases and waivers, set forth in Section 20.2 shall not apply to any damage to or destruction of such Common Systems until Final Completion is achieved under this Agreement.

20.3 **Limitation on Contractor's Liability for Delay Liquidated Damages**.

A. ***Delay Liquidated Damages***. Subject to Section 20.3B, Contractor's maximum liability to Owner for Delay Liquidated Damages is One Hundred Ninety Million U.S. Dollars (U.S.$190,000,000) in the aggregate. For purposes of clarity, the Substantial Completion Delay Liquidated Damages, the RLFC Delay Liquidated Damages, the MCHE Replacement Delay Liquidated Damages and the Record As-Built Delivery Requirement Delay Liquidated Damages assessed against Contractor pursuant to Sections 13.2A, 11.1D, 11.4B, and 13.2B, respectively, shall apply towards the foregoing limitation of Contractor's Delay Liquidated Damages.

B. ***Exceptions to Limitations of Liability Under Section 20.3***. Section 20.3A shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve Substantial Completion and Final Completion and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.3 apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel.

20.4 **Delay Liquidated Damages In General**.

A. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages

and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of the per Day rate of the Delay Liquidated Damages on the basis that such per Day rate constitutes a penalty or is otherwise unenforceable or invalid. If Contractor, Guarantor or anyone on their behalf successfully challenges the per Day rate of any Delay Liquidated Damages, Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement. For the avoidance of doubt, this Section 20.4A shall not preclude Contractor from contesting whether it is responsible for delays giving rise to Owner's claims for Delay Liquidated Damages.

B. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement. Notwithstanding the foregoing: (1) Substantial Completion Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for delay in achieving Substantial Completion of the Train 1 Expansion, (2) the Record As-Built Delivery Requirement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving the Record As-Built Delivery Requirement, (3) the RLFC Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in readiness to load the LNG Tanker as set forth in Section 11.1D and (4) the MCHE Replacement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving Substantial Completion due to an MCHE Replacement Scenario.

20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES; *PROVIDED THAT* THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 20.5 SHALL NOT APPLY: (I) TO THE DELAY LIQUIDATED DAMAGES SET OUT IN SECTION 13.2; (II) TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS BROUGHT BY ANY THIRD PARTY; OR (III) WHERE CONSEQUENTIAL DAMAGES ARE EXPRESSLY PERMITTED UNDER SECTION 20.4A. FOR THE PURPOSES OF THIS SECTION 20.5, THE TERM "THIRD PARTY" SHALL MEAN ANY PERSON OTHER THAN CONTRACTOR, OWNER OR ANY OF THEIR RESPECTIVE AFFILIATES. AS USED IN THIS SECTION 20.5, OWNER SHALL MEAN THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR SHALL MEAN THE CONTRACTOR INDEMNIFIED PARTIES AND CONTRACTOR'S SUBCONTRACTORS AND SUB-SUBCONTRACTORS.

20.6 **Owner Separate Contracts**. In any separate contract which Owner enters into after the Effective Date with technical consultants and contractors (other than Contractor) for the construction of the Train 1 Expansion, Owner shall use reasonable efforts to provide that indemnities running to the benefit of Owner in such contracts shall also run to the benefit of Contractor.

20.7 **Continuing Rights and Obligations**. Owner and Contractor agree that (i) FLIQ CF, FLEX, FLNG Development, FLIQ2 and each of their Affiliates, (ii) any present holder of any ownership interest in the Train 1 Expansion or this Agreement, (iii) any future recipient of any ownership interest in the Train 1 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.

20.8 **Application of Liability Limitations**.

A. Except to the extent prohibited by the governing law specified in Section 21.9, or as stated in the terms of this Agreement, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability and indemnities expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract or otherwise of the Person released or whose liability is waived, disclaimed, limited, fixed or indemnified.

B. Except as specifically stated in Section 8.2A.1 (with respect to the policy deductibles for builder's risks or marine cargo insurance), no liabilities incurred by Contractor arising from the Train 2 EPC Agreement (including any delay liquidated damages assessed thereunder) shall accrue against any limitations of liability under this Agreement (including the limitations of liability set forth in Sections 20.1 and 20.3). Conversely, no liabilities incurred by Contractor arising under this Agreement (except the aforementioned portion of Section 8.2A.1), including any Delay Liquidated Damages assessed hereunder, shall accrue against any limitations of liability under the Train 2 EPC Agreement.

ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 **Entire Agreement**. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, and the Equipment Sharing Agreement (once executed) contain the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto; *provided that*, with respect to the Common Development Work, the Train 2 EPC Agreement, the Equipment Sharing Agreement and this Agreement, collectively, contain the entire understanding of the Parties and incorporate any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement or the Equipment Sharing Agreement or, with respect to the Common Development Work, the Train 2 EPC Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no

applicability to Owner with respect to this Agreement. Notwithstanding anything to the contrary herein, with respect to the FEED Agreement, this Agreement and the Equipment Sharing Agreement supersede such FEED Agreement only to the extent of the work performed under the FEED Agreement that relates to the Scope of Work under this Agreement. All Work performed under the FEED Agreement and any other agreements between the Parties relating to the Scope of Work under this Agreement shall be governed by the terms and conditions set forth in this Agreement and the Equipment Sharing Agreement and, with respect to the Common Development Work, the Train 2 EPC Agreement. For purposes of clarity, the FEED Agreement shall remain effective as to any work performed thereunder that is not related to the Scope of Work under this Agreement (including that work relating to a third liquefaction train, and its corresponding pretreatment facilities, that may be located at or near the Site).

21.2 **Amendments**. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1C or Section 6.2D, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 **Joint Effort**. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

21.4 **Captions**. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.5 **Notice**. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be either (i) hand delivered; (ii) delivered by same-day or overnight courier; (iii) delivered by facsimile with written confirmation of complete transmittal; or (iv) delivered by certified mail, return receipt requested, to the other Party at the address set forth below.

A. <u>If delivered to Owner</u>:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: Mark Mallett

with a copy to:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: General Counsel

B. If delivered to Contractor:

CB&I/Zachry Joint Venture
c/o CB&I Inc.
6001 Rogerdale
Houston, Texas 77072
Facsimile: 713-485-1005
Attn: Chet Lloyd

with a copy to:

CB&I Inc.
2103 Research Forest Blvd.
The Woodlands, Texas 77380
Facsimile: 832-513-1591
Attn: General Counsel

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed to be received: (1) if delivered by hand, by same-day or overnight courier service, or certified mail on the date actually received at the address of the intended recipient; or (2) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.

21.6 **Severability**. The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

21.7 **Assignment**. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except Owner may assign this Agreement, in whole or part, to any of its Affiliates or any of its co-venturers or to any Person who acquires an ownership interest in Owner or the Train 1 Expansion. Furthermore, Owner may assign, pledge and/or grant a security interest in this Agreement that Owner has or which shall hereafter arise in and to Owner and all claims resulting from any failure of performance with any provision of this Agreement to any Lender without Contractor's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.7 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.7 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for Default.

21.8 **No Waiver**. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.9 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, 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 Agreement and shall be disclaimed in and excluded from any Subcontracts entered into by Contractor in connection with the Work or the Train 1 Expansion.

21.10 **Successors and Assigns**. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

21.11 **Attachments and Schedules**. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

21.12 **Obligations**. Nothing contained in this Agreement shall be construed as constituting a joint venture or partnership between Contractor and Owner.

21.13 **Further Assurances**. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. In addition, Contractor agrees to cooperate with any Lender (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement, (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not adversely affect the rights, obligations and liability limitations of Contractor hereunder and Contractor's entitlement to payment in accordance with this Agreement, and (iv) to take such action or execute such documentation as any Lender shall reasonably require.

21.14 **Priority**. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority:

A. Change Orders or written amendments to this Agreement;

B. this Agreement; and

C. Attachments and Schedules to this Agreement.

21.15 **Restrictions on Public Announcements**. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs of any part of the Facility (except as may be included in a Monthly Progress Report) or (ii) publicly refer to the Work, the Train 1 Project or any part of the Facility in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work, the Train 1 Project or any part of the Facility without the prior written consent of Owner (which shall not be unreasonably withheld). Under no circumstance shall Contractor permit access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner.

21.16 **Parent Guarantee**. CB&I Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Zachry Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. The guarantee contained in this Section 21.16 is unconditional and irrevocable. Each of the guarantees provided by CB&I Guarantor and Zachry Guarantor are individually referred to as a "***Parent Guarantee***" and collectively as "***Parent Guarantees***."

21.17 **Foreign Corrupt Practices Act**. With respect to the performance of the Work, each Party shall, and shall cause each of its contractors (or, in the case of Contractor, its Subcontractors and Sub-subcontractors), and the agents and employees of each of them to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2), as amended (or, if such act is not applicable to a Person, to act in such manner that would comply with the provisions of such act were it applicable to such Person). Neither Party shall take any action that could result in the other Party or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such Act and shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties, in order to obtain or maintain business.

21.18 **Language**. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language, unless otherwise directed by Owner in writing.

21.19 **Counterparts**. This Agreement may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by each of the Parties. Facsimile signatures shall be deemed as effective as original signatures.

21.20 **Owner's Lender(s)**. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain financing for or in connection with the Train 1 Project and Contractor agrees to cooperate with Owner and any Lender in connection with such financing (and any refinancing), including delivering, as a condition to any such financing or refinancing, such documentation and information as is

customary for a financing or refinancing of such type and entering into direct agreements with such Lender, as required by such Lender, covering matters that are customary in a financing or refinancing of such type, including: Lender assignment or security rights with respect to this Agreement; opinions; direct notices to Lender, with applicable cure periods, prior to any termination, suspension or other similar action; step-in/step-out rights; an obligation on the Parties not to amend the Agreement without Lender's consent; access by such Lender's representative and other matters applicable to such financing or refinancing. Contractor acknowledges and agrees that Owner's issuance of NTP is contingent upon obtaining such non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner may terminate this Agreement for convenience in accordance with Section 16.2.

21.21 **Joint and Several Liability**. Contractor is a joint venture comprised of: (i) CB&I Inc., a Texas corporation ("***CB&I***") and (ii) Zachry Industrial, Inc., a Delaware corporation ("***Zachry***"). CB&I and Zachry agree on behalf of themselves and their respective insurers and guarantors to be jointly and severally responsible and liable to Owner for all of Contractor's duties and obligations under this Agreement and for all claims, damages, costs, expenses and all other liability arising out of or relating to the performance or failure to perform any of Contractor's duties or obligations under this Agreement or otherwise arising out of the Train 1 Project.

21.22 **Coordination Between this Agreement and Train 2 EPC Agreement**.

A. ***Administrative Coordination***. Owner and Contractor acknowledge that Owner and FLIQ2 are concurrently (but separately) developing and financing the Train 1 Expansion and Train 2 Expansion, respectively, and that Contractor is providing the turnkey engineering, procurement and construction services for both the Train 1 Expansion and the Train 2 Expansion in accordance with this Agreement and the Train 2 EPC Agreement. Notwithstanding the separate agreements under which the Train 1 Expansion and Train 2 Expansion will be developed, the Parties intend to use commercially reasonable efforts to minimize administrative duplication and expense where reasonably practicable.

B. ***Coordination of Contractor's Work and Effects of Contractor's Acts or Omissions between this Agreement and the Train 2 EPC Agreement***. Contractor acknowledges that Contractor, in accordance with the Train 2 EPC Agreement, will design, engineer, procure, construct, pre-commission, commission, start-up and test the Train 2 Expansion while concurrently performing the Work under this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor further acknowledges that any work performed by (or on behalf of) Contractor under the Train 2 EPC Agreement (as such agreement may be modified from time to time in accordance with the terms thereof), as well as any acts or omissions of Contractor, or any of its subcontractors or sub-subcontractors in connection with the Train 2 EPC Agreement or Train 2 Expansion, shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 1 Project Schedule or any other Changed Criteria under this Agreement unless such circumstance relates to the Common Development Work and also entitles Contractor to a Change Order under Section 6.2A herein.

C. ***Coordination of FLIQ2 Directives under the Train 2 EPC Agreement***. The Parties agree and acknowledge that no act, instruction or direction by FLIQ2, or anyone acting for or on behalf of FLIQ2 under the Train 2 EPC Agreement, shall entitle Contractor to any modification of the Contract Price, Train 1 Project Schedule or any other Changed Criteria under this Agreement unless (i) such instruction or direction relates to the Common Development Work and is approved by Owner in writing (which such written approval may come in the form of Owner providing substantially identical instruction or direction in accordance with this Agreement) or (ii) the instruction or direction originates from a change order request by FLIQ2 under the Train 2 EPC Agreement for which Contractor provides timely notice to Owner under Section 6.3 and that is ratified by Owner pursuant to Section 6.3.

D. ***Coordination of Relief to Contractor as a Result of Force Majeure Under the Train 2 EPC Agreement***. Contractor and Owner acknowledge that an event of "Force Majeure" (as defined in the Train 2 EPC Agreement) which only directly impacts the Train 2-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 1 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 1 Project Schedule to the extent allowed under, and in accordance with, Section 6.8 (including, as required by such Section 6.8, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

E. ***Coordination of Relief to Contractor as a Result of Certain Owner-Assumed Risks Under the Train 2 EPC Agreement***. Contractor and Owner acknowledge that a circumstance providing Contractor with relief under Section 6.9 of the Train 2 EPC Agreement which only directly impacts the Train 2-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 1 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 1 Project Schedule to the extent allowed under, and in accordance with, Section 6.9 of this Agreement (including, as required by such Section 6.9, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

F. ***Limitation of Rights and Relief between this Agreement and the Train 2 EPC Agreement***. Except as set forth in this Section 21.22, and for purposes of clarity, any event or circumstance entitling Contractor to a change order under the Train 2 EPC Agreement shall not, in and of itself, entitle Contractor to a Change Order under this Agreement unless such event or circumstance, separately, entitles Contractor to a Change Order under Section 6.2A.

21.23 **Survival**. Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 16, Article 17, Article 18 and Article 19, Article 20, Sections 3.6, 3.8, 3.13, 3.14, 3.17, 4.5, 4.6, 8.1, 8.2, 11.10, 21.1, 21.9, 21.16, 21.21 and this Section 21.23 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their

nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Owner:

FLNG LIQUEFACTION, LLC

By: Freeport LNG Expansion, L.P., its sole member

By: Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

Contractor:

ZACHRY INDUSTRIAL, INC.

By:_____
Name: John B. Zachry
Title: Chief Executive Officer

CB&I INC.

By: _____
Name: Philip Asherman
Title: Chief Executive Officer

Acknowledged by Freeport LNG Expansion, L.P., but only for purposes of partially superseding the FEED Agreement pursuant to Section 21.1.

FREEPORT LNG EXPANSION, L.P.

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

[Signature Page Continues]

Acknowledged by FLIQ Common Facilities, LLC, but only for purposes of: (i) having the right, but not the obligation, to make payments to Contractor pursuant to Section 7.14, (ii) taking title to the Work pursuant to Section 8.1, (iii) gaining rights in Work Product related to the Common Development Work pursuant to Section 10.1, and (iv) granting Contractor a license in certain Work Product pursuant to Section 10.3.

FLIQ COMMON FACILITIES, LLC

By Freeport LNG Expansion, L.P., its sole member

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

EXHIBIT 7

Proof of Claim No. 1499

Your claim can be filed electronically on Verita's website at https://www.veritaglobal.net/zhi

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

United States Bankruptcy Court for the Southern District of Texas, Houston Division

Indicate Debtor against which you assert a claim by checking the appropriate box below. (**Check only one Debtor per claim form.**)

☐ Zachry Holdings, Inc. (Case No. 24-90377)	☐ Zachry Constructors, LLC (Case No. 24-90384)	☐ Zachry Maintenance Services, LLC (Case No. 24-90395)
☐ Computer Simulation & Analysis, Inc. (Case No. 24-90391)	☐ Zachry Engineering Corporation (Case No. 24-90379)	☐ Zachry Nuclear Construction, Inc. (Case No. 24-90388)
☐ J.V. Industrial Companies, LLC (Case No. 24-90396)	☐ Zachry Enterprise Solutions, LLC (Case No. 24-90386)	☐ Zachry Nuclear Engineering, Inc. (Case No. 24-90390)
☐ JVIC Fabrication, LLC. (Case No. 24-90393)	☐ Zachry EPC Holdings, LLC (Case No. 24-90378)	☐ Zachry Nuclear, Inc. (Case No. 24-90389)
☐ Madison Industrial Services Team, LLC (Case No. 24-90397)	☐ Zachry High Voltage Solutions, LLC (Case No. 24-90381)	☐ Zachry Plant Services Holdings, Inc. (Case No. 24-90392)
☐ Moss Point Properties, LLC (Case No. 24-90387)	☐ Zachry Industrial Americas, Inc. (Case No. 24-90394)	☐ ZEC Michigan, Inc. (Case No. 24-90383)
☐ UE Properties, Inc. (Case No. 24-90382)	☒ Zachry Industrial, Inc. (Case No. 24-90385)	☐ ZEC New York, Inc. (Case No. 24-90380)

Modified Official Form 410

Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed, May 21, 2024.

Part 1: Identify the Claim

1. **Who is the current creditor?**

FLNG Liquefaction 2, LLC
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☒ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

(see addendum for full notice list)

Where should notices to the creditor be sent?

FLNG Liquefaction 2, LLC
Name
333 Clay Street, Suite 5050
Number Street
Houston, TX 77002-4173
City State ZIP Code
United States of America
Country
Contact phone 713-980-2888
Contact email sottis@freeportlng.com

Where should payments to the creditor be sent? (if different)

Name
Number Street
City State ZIP Code
Country
Contact phone _____
Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☒ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ Undetermined. **Does this amount include interest or other charges?**

☐ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

If applicable, the claim must include information regarding payment received from any third party on account of, in connection with, or otherwise relating to the claim. Please list such information in the supporting documentation to the claim.

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Breach of contract action - see attached addendum

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

9. **Is all or part of the claim secured?**

☒ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☒ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☒ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/13/2024
MM / DD / YYYY

Shaw Ottis
Digitally signed by Shaw Ottis
Date: 2024.09.13 14:48:12 -05'00'
Signature

Print the name of the person who is completing and signing this claim:

Name: Shaw (First name) Christopher (Middle name) Ottis (Last name)

Title: SVP, General Counsel & Secretary

Company: FLNG Liquefaction 2, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 333 Clay St., Suite 5050
Number Street

Houston (City) TX (State) 77002 (ZIP Code) USA (Country)

Contact phone: 713-980-2894 Email: sottis@freeportlng.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*,[1]	Case No. 24-90377 (MI)
Debtors.	(Jointly Administered)

ADDENDUM TO PROOF OF CLAIM OF FLNG LIQUEFACTION, LLC

FLNG Liquefaction 2, LLC ("FLNG 2") hereby submits this addendum to its Proof of Claim (the "Claim") against Zachry Industrial Inc. ("Zachry") and respectfully states as follows:

Background

1. On April 23, 2024, FLNG 2 and affiliated entities filed suit in the 133rd Judicial District Court of Harris County, Texas (the "State Court"), asserting a state law breach of contract claim against Zachry, CB&I, Inc., and Chiyoda International Corporation after discovering significant defects in the performance of their work on a natural gas liquefaction and liquified natural gas export facility, resulting in substantial costs, the shut-down of operations, and other damages (the "Facilities Defects Case"). **Exhibit B**.

2. On May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, jointly administered under Case No. 24-90377.

3. On July 31, 2024, Zachry removed the Facilities Defects Case from State Court to

[1] The debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/zhi. The Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. 1452(a).

4. On August 28, 2024, the Facilities Defects Case was referred to this Court.

5. FLNG 2's Claim against Zachry is predicated on its breach of contract claim asserted in the Facilities Defects Case, which in turn is predicated on Zachry's breach of various provisions under the *Fixed Price Separated Turnkey Agreement for the Engineering, Procurement, and Construction of the Freeport Train 2 Liquefaction Project by and between FLNG 2 Liquefaction, LLC as Owner and Zachry Industrial, Inc. and CB&I Inc. as Contractor* (the "EPC") dated December 10, 2013. *See* **Exhibit C**. The Facilities Defects Case is yet to be adjudicated and is currently pending under Civil Action No. 4:24-CV-2841. On information and belief, an adversary proceeding number has not yet been assigned.

6. Because of the voluminous nature of the documents supporting this Claim, the fact that such documents contain confidential or commercially sensitive information, and based on consent from the Debtors, not all such documents are annexed hereto. FLNG 2 has made or will make such documents available to the Debtors. Such documents will also be made available to the Official Committee of Unsecured Creditors upon written request and subject to appropriate confidentiality restrictions.

Reservation of Rights

7. FLNG 2 does not waive, and expressly reserves, (i) all rights and remedies at law or in equity that FLNG 2 has or may have against Zachry, any of the Debtors, any of their respective affiliates and subsidiaries, or any other person or entity who may be liable for all or part of the claims set forth herein; (ii) any obligation owed to FLNG 2 or any right to any security or to assert any security interest that may be determined to be held by FLNG 2; (iii) FLNG 2's right to have final orders in non-core matters, or core matters to which *Stern v. Marshall* applies, entered only

after *de novo* review by a United States District Court Judge; and (iv) any right to (a) withdraw the reference, or otherwise challenge the jurisdiction of the Court, with respect to the subject matter of the Claim, any objection or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 2, (b) assert that the reference has already been withdrawn with respect to the subject matter of the Claim, any objection or other proceeding commenced with respect thereto or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 2, or (c) seek adjudication of its Claim in any court of competent jurisdiction on any basis, including mandatory abstention, permissive abstention, or equitable remand.

8. The filing of this Claim is not, nor shall it be deemed or construed to be: (i) a waiver or release of any term or provision of any agreement between FLNG 2 and Zachry or any agreement governing the relationship between FLNG 2 and Zachry; (ii) an election of remedies or waiver of any past, present or future breaches of any agreement between FLNG 2 and Zachry or any agreement governing the relationship between FLNG 2 and Zachry; (iii) a waiver or limitation of any procedural or substantive rights of FLNG 2 or any procedural or substantive defenses to any claim that may be asserted against FLNG 2; (iv) a waiver or release of, or any other limitation on, FLNG 2's right to assert that any portion of the claims asserted herein or any other claims are entitled to priority, including, without limitation, under sections 503(b) and 507(a)(2) of the Bankruptcy Code; (v) a waiver of any right to claim specific assets; or (vi) a waiver or release of any lien or security interest. In addition, FLNG 2 reserves the right to withdraw this Claim in its entirety or with respect to any portion thereof for any reason whatsoever.

9. FLNG 2 expressly reserves the right to (i) amend, modify, update, or supplement the Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify, or correct amounts, to provide additional detail regarding the claims set forth

herein, to fix the amount of any disputed, contingent or unliquidated claim, or to assert any alternative theories or bases for recovery; (ii) file additional proofs of claim, administrative expense claims or requests for payment of any administrative expenses, or pleadings for additional claims that may be based on the same or additional documents; and (iii) assert any and all other claims, actions, defenses, setoffs, recoupments, rights, right of action, causes of action, claims or remedies of whatever kind or nature that it currently has, or may have in the future against the Debtors and/or any of their respective affiliates and subsidiaries, or any other person or entity (including, without limitation, guarantors, partners, officers, directors, and other creditors of the Debtors), at law or in equity, including, without limitation, administrative or other priority claims, lien rights, interests, and the right to assert claims that are otherwise warranted in any related actions. This Claim is filed without prejudice to the filing by FLNG 2 of additional proofs of claim or administrative expense claims with respect to any other liability or indebtedness of and/or equity interest in the Debtors.

10. FLNG 2 does not waive or release any of its rights to amounts due for any claim asserted herein by not ascribing a specific dollar amount thereto at this time, and FLNG 2 expressly reserves the right to amend or supplement this Claim if it deems it necessary or appropriate, to assert and state an amount for any such claim.

11. The Claim is not subject to objection, defense, setoff, recoupment, or counterclaim of any kind by the Debtors. FLNG 2 expressly reserves and does not waive any objections, defenses, rights of set-off or recoupment, or counterclaims, that it may possess. No judgment has been rendered on the Claim.

12. By filing this Claim, FLNG 2 does not consent to or submit itself to the jurisdiction of the Court for any purpose except in respect of the allowance of this Claim for any and all

amounts due in connection herewith.

Notices

13. All notices, communications, and distributions in respect of this Claim should be delivered to:

FLNG Liquefaction, LLC
333 Clay St., Suite 5050
Houston, TX 77002
Attention: Shaw Christopher Ottis
Phone: 713-980-2894
Email: sottis@freeportlng.com

And

Christopher Taylor
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2058
Email: ctaylor@kslaw.com

Mike Stenglein
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2003
Email: mstenglein@kslaw.com

Michael Fishel
King & Spalding LLP
1100 Louisiana, Suite 4100
Houston, TX 77002
Phone: (713) 276-7369
Email: mfishel@kslaw.com

EXHIBIT B

Case 4:24-cv-03195 Document 1-2 Filed on TXSB on 12/06/24 Page 1 of 16
4/23/2024 10:57 AM
Marilyn Burgess - District Clerk Harris County
Envelope No. 86955386
By: Bernitta Barrett
Filed: 4/23/2024 10:57 AM

Cause No. _____

FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	**_____ JUDICIAL DISTRICT**
v.	§	
CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION	§	**HARRIS COUNTY, TEXAS**
Defendants.		

PLAINTIFFS' ORIGINAL PETITION

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, 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.

Copy from re:SearchTX

III. DISCOVERY LEVEL

3. This case is intended to be conducted under Discovery Level 3 in accordance with Texas Rule of Civil Procedure 190.4.

IV. PARTIES

4. Plaintiff FLNG Liquefaction, LLC ("FLIQ1") is a Delaware limited liability company with its principal place of business in Houston, Texas.

5. Plaintiff FLNG Liquefaction 2, LLC ("FLIQ2") is a Delaware limited liability company with its principal place of business in Houston, Texas.

6. Plaintiff FLNG Liquefaction 3, LLC ("FLIQ3") is a Delaware limited liability company with its principal place of business in Houston, Texas.

7. Defendant CB&I Inc. ("CB&I") is a Texas corporation with its principal place of business in Houston, Texas. CB&I may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Zachry Industrial, Inc. ("Zachry") is a Delaware corporation with its principal place of business in San Antonio, Texas. Zachry may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Chiyoda International Corporation ("Chiyoda") is a Washington corporation with its principal place of business in Houston, Texas. Chiyoda may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

V. JURISDICTION & VENUE

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.020 because the written agreements at issue involve "major transactions" as defined

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under the statute, and the parties agreed to venue in Harris County. Specifically, the agreements at issue provide that each party "irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas."

11. This Court has subject matter jurisdiction over this dispute because the amount in controversy is within the jurisdictional limits of this Court.

12. This Court has personal jurisdiction over Defendants because they are citizens of Texas by virtue of having their principal places of business in Texas. Further, Defendants conduct business in Texas, including but not limited to, by entering into contractual relationships and performing work in Texas and maintaining offices and employees in Texas. Defendants have purposefully availed themselves of the benefits and protections of the State of Texas by establishing minimum contacts here, and this Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

VI. FACTUAL BACKGROUND

A. Freeport LNG's Quintana Island Facility

13. Freeport LNG Development, L.P. ("Freeport LNG") is one of the first and largest exporters of LNG. With its joint venture partners, Freeport LNG owns and operates an LNG facility located on Quintana Island near Freeport, Texas (the "LNG Facility").

14. The LNG Facility was previously an LNG import and regasification facility (the "Regas Facility") featuring two 160,000 cubic meter LNG storage tanks, a marine dock that could accommodate the largest LNG tankers in service, and an LNG vaporization system capable of producing over 2 billion cubic feet (Bcf) of gas per day. Construction on the Regas Facility started in 2005, and commercial operations began in 2008. However, by the time the import terminal commenced operations in 2008, the North American natural gas industry had begun to experience

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a sea change—the shale gas revolution.

15. In 2010, to take advantage of excess domestic natural gas reserves due primarily to improvements in extracting gas from shale, Freeport LNG began a project to transform the Regas Facility from an import terminal into a natural gas liquefaction and LNG export facility (as defined above, the "LNG Facility").

16. LNG is natural gas that is super-cooled to transform it from a gaseous state into a liquid for ease and safety of non-pressurized storage and transport. Natural gas is converted to a liquid in a liquefaction plant that performs a sequence of processes, which is often referred to as "liquefying" the natural gas. This liquefaction process takes place in processing units that are often referred to as "trains."

17. The LNG Facility, which currently has three liquefaction processing units, or trains, is the first world-scale electric-powered LNG plant in North America. Train 1 was commissioned and began commercial operations in December 2019. Train 2 and Train 3 commenced operations in January and May 2020, respectively. When operating at full capacity, the output from the Facility's three liquefaction trains is enough to decrease the United States trade deficit by 1-2% alone.

18. Each liquefaction train at the LNG Facility uses three General Electric 75 MW motors that power three propane and mixed-refrigerant compressors. The electric motors used at the LNG Facility were selected to allow Freeport LNG to comply with strict local air emissions standards and meet its production and export targets.

B. The EPC Contracts

19. FLIQ1, FLIQ2, and FLIQ3 are affiliates of Freeport LNG.

20. FLIQ1 developed the first LNG train ("Train 1"). FLIQ2 developed the second

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LNG train ("Train 2"), and FLIQ3 developed the third LNG train ("Train 3").

21. FLIQ1 and FLIQ2 selected CB&I and Zachry, through a joint venture arrangement, to provide all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 1 and Train 2 on a fixed price, turnkey basis.

22. On December 10, 2013, FLIQ1 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 1 EPC Contract").

23. Also on December 10, 2013, FLIQ2 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project ("Train 2 EPC Contract").

24. FLIQ3 selected CB&I, Zachry and Chiyoda, through a joint venture arrangement, to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 3 on a fixed price, turnkey basis.

25. On March 24, 2015, FLIQ3 entered into a Fixed Price Separated Turnkey Agreement with CB&I, Zachry, and Chiyoda for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 3 EPC Contract").

26. The pertinent provisions of the Train 1 EPC Contract, Train 2 EPC Contract, and Train 3 EPC Contract are virtually identical and are referred to collectively in this Petition as the EPC Contracts. CB&I, Zachry, and Chiyoda, as applicable, are referred to in the EPC Contracts collectively as "Contractor," and will be collectively referred to as "Contractor" in this Petition.

C. Defendants' Obligations Under the EPC Contracts

27. The EPC Contracts establish Contractor's substantive performance standards for the Work. Among other obligations, Defendants agreed to perform all engineering, design,

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manufacturing, and fabrication work for Trains 1, 2, and 3 in accordance with applicable codes and standards and in accordance with good engineering and construction practices.

28. Specifically, Section 2.5C of the EPC Contracts provides that:

> "***Contractor shall perform the Work in accordance*** with Applicable Law and ***Applicable Codes and Standards***, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work." (emphasis added).

29. Section 3.1A of the EPC Contracts provides that:

> "***the Work*** shall be performed on a turnkey basis and ***shall include*** all ***engineering***, ***procurement,*** construction, pre-commissioning, start-up and testing of the Train [1, 2, and 3] Expansion, all ***Equipment***, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, ***workmanship, inspection, manufacture***, ***fabrication***, installation, ***design***, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

30. Section 3.1A of the EPC Contracts further provides that:

> "***Contractor shall perform the Work in accordance with GECP***, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement." (emphasis added).

31. The EPC Contracts define "Good Engineering and Construction Practices" or "GECP" as:

> "***the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards*** employed by the liquefied natural gas engineering and construction industries with respect to: (i) the ***engineering, procurement,*** construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A." (emphasis added).

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32. Section 3.2A of the EPC Contracts provides that Contractor's specific obligations include to "***procure***, supply, transport, handle, properly store, ***assemble***, erect and install all ***Equipment***." (emphasis added).

33. Section 3.2B of the EPC Contracts provides that Contractor's specific obligations include to:

> "provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, ***inspection and quality control services required to ensure that the Work is performed in accordance herewith***." (emphasis added).

34. Section 3.2D of the EPC Contracts requires that the Contractor "perform shop and other inspections of the work of Subcontractors and Sub-subcontractors ***to ensure that such work meets all of the requirements of this Agreement***." (emphasis added).

35. Section 3.2R of the EPC Contracts requires that the Contractor "***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement***, including that specified in Section 3.3." (emphasis added).

36. Section 3.3A of the EPC Contracts provides that:

> "Contractor shall, as part of the Work, ***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement*** and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

37. Section 3.3C(6) of the EPC Contracts provides that:

> "Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and ***in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control***." (emphasis added).

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38. Section 3.3D of the EPC Contracts provides that:

> "***Contractor shall perform***, or cause to be performed, all design and ***engineering work in accordance with Applicable Law and Applicable Codes and Standards***, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law." (emphasis added).

39. Section 8.2B of the EPC Contracts provides that Contractor remains responsible for breaches of its obligations under the EPC Contracts following Substantial Completion:

> "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2, and 3] Expansion and each component thereof … after Substantial Completion of the Train [1, 2, and 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." (emphasis added).

40. Section 12 of the EPC Contracts establishes Contractor's Warranties for its Work. Specifically, under Section 12.1B of the EPC Contracts, Contractor warrants that the Work "including Equipment, and each component thereof" shall be:

> "1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;" "2. ***in accordance with all of the requirements of this Agreement***, ***including in accordance with GECP***, Applicable Law and Applicable Codes and Standards;" and "4. ***free from defects in design, material and workmanship***." (emphasis added).

41. Section 12.1C of the EPC Contracts provides:

> "Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; provided, however, ***Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement***, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as ***Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work***." (emphasis added).

42. Section 12.1C of the EPC Contracts further provides:

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> "All such [Subcontractor and Sub-subcontractor] warranties shall be ***deemed to run to the benefit of Owner*** and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be ***enforceable by Owner upon Substantial Completion***. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit ***direct enforcement by Contractor or Owner*** against any Subcontractor or Sub-subcontractor whose warranty is called for." (emphasis added).

43. Section 12.1C of the EPC Contracts also establishes that:

> "***Contractor is jointly and severally liable*** with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty."

44. Section 12.3 of the EPC Contracts establishes Contractor's obligation to perform Corrective Work during the Defect Correction Period, which is defined as the 18-month period following Substantial Completion. However, Section 12.3D of the EPC Contracts makes clear that Contractor remains responsible to Owner for failures to comply with its Warranties under the EPC Contracts:

> "Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the ***Defect Correction Period*** relates only to the specific obligation of Contractor to perform Corrective Work, and ***has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work***." (emphasis added)

D. Defects in the Trains' Motors

45. While the Project experienced Contractor execution delays and other difficulties, after Trains 1, 2, and 3 began commercial operations, no significant defects in Defendants' work were discovered after the expiration of the 18-month Defect Correction Period until recently.

46. On January 17, 2024, the Train 3 Propane Compressor 75 MW Motor ("75 MW Motor") tripped and remained offline, despite several attempts to restart it. Initial investigations indicated that the likely cause of the trip was an electrical fault within a non-accessible portion of

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the 75 MW Motor. A subsequent root cause analysis ("RCA") determined that the direct cause of the 75 MW Motor failure was an electrical short caused by loose hardware (bolts, nuts and washers) within the 75 MW Motor that dislodged from a protective panel where they were installed and fell into the 75 MW Motor windings.

47. Specifically, the RCA identified the following root causes of the loose hardware:

a. *Deficient bolt/washer/nut retention assembly design*: Design was not in accordance with manufacturer recommendations or Good Engineering and Construction Practices ("GECP"). Specifically, ***locking nuts were not used to ensure that the hardware remained tightened in place*** within the 75 MW Motor during normal operations within vibration integrity limits. Additionally, ***Nord-Lock washers were placed on only one side of the bolt step up***, which we understand ***is not in accordance with manufacturer recommendations*** that require a Nord-Lock washer on both the bolt and nut sides for proper fastening.

b. *Inadequate quality assurance/quality control during assembly*: There was ***defective workmanship during assembly, including the use of improper parts, as well as differing metals for similar parts***. For example, bolt assembly components in the 75 MW Motor were a mixture of stainless steel and carbon steel parts, and a large shim washer was found within the 75 MW Motor and is not an approved material in the bill of materials, nor is the use of shim washers part of the proper design of the bolt assembly. In addition, ***multiple bolts were identified as being inadequately torqued***.

48. Similar defects have been identified in two other Train 3 motors, which will also require repairs.

49. The RCA identified a separate Defect in the 75 MW motor that also requires repair in order to prevent premature failure in the future. Specifically, significant partial discharge was found on the cable bundles going from the stator to the motor termination boxes in the 75 MW motor. The cause of the discharge was determined to be the excessive length of the cables and the increased bend radius of the cabling. Cable sheath and insulation damage due to excess partial discharge was also found in the other Train 3 motors, requiring repairs to all three Train 3 motors before they could be placed back into service.

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50. The same 75 MW Motor are utilized in Trains 1 and 2 of the LNG Facility. Given the prevalence of the Defects in the Train 3 motors, Plaintiffs believed that it was likely that the motors in Trains 1 and 2 are affected by the same Defects.

51. As a result, Plaintiffs implemented enhanced monitoring of Trains 1 and 2 and planned to perform inspections of Trains 1 and 2 after the repairs to Train 3 were completed. However, the enhanced monitoring performed on the Train 1 and 2 motors identified an increase in partial discharge and current abnormalities in one of the Train 2 motors. As such, Train 2 was taken offline for inspection prior to the completion of the repairs to Train 3.

52. Inspections of the Train 2 motors revealed additional workmanship issues, even moreso than those found in the inspections of the Train 3 motors. Not only did all 6 bolt assemblies dislodge from the protective micarta panel (as they did in the damaged Train 3 motor), but the micarta panel itself partially separated due to an approximately two-foot long bolt assembly dislodging from the underside of the panel. While one of the two-foot long bolt assemblies remained in place, the other bolt assembly became fully dislodged from the protective panel and appears to have dropped into the rotor portion of the motor and sheared into numerous smaller pieces (which caused additional damage to the motor internals).

53. The inspection of the Train 2 motor also identified substantial damage to the insulation on the motor's stator. The preliminary boroscope inspection of Train 2's 12K-31 motor identified that some bolt assemblies have dislodged from the micarta panels.

54. Given the extent of the faulty workmanship and poor condition of the bolt assemblies and cabling supports identified in Train 2, Plaintiffs made the decision to take Train 1 offline immediately to mitigate any possibility of damage to the Train 1 motors.

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55. FLIQ3 has incurred damages, costs, losses, and expenses as a result of the failure of the 75 MW motor on Train 3 and Contractor's failure to comply with its obligations and Warranties under the EPC Contracts, including investigatory and repair costs, removal and transportation costs for the 75 MW motor to be taken from its installed location to and from the off-site facility for repairs, costs to install a spare 75 MW motor into Train 3, and other costs and expenses incurred by FLIQ3 as a result of the Defects. FLIQ3 also incurred additional damages, costs, losses and expenses to carry out preventative maintenance on the other Train 3 motors.

56. FLIQ1 and FLIQ2 have or will incur similar damages, costs, losses and expenses as a result of the Contractor's failure to comply with its obligations and Warranties under the EPC Contracts in connection with the motors on Trains 1 and 2.

57. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim.

58. All conditions precedent to filing this action have or will soon occur.

VII. CAUSES OF ACTION

A. Breach of the EPC Contracts

59. Plaintiffs incorporate and reallege the preceding allegations as if fully set forth below.

60. Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts.

61. Defendants have breached their substantive performance obligations under Articles 2 and 3 of the EPC Contracts, as well as their Warranty obligations under Article 12 of the EPC Contracts, by at least the following acts and omissions:

a. Contractor's deficient bolt/washer/nut retention assembly design and its

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inadequate quality assurance/quality control during assembly,

b. Contractor's excessive cable length and increased bend radius of cabling resulting in significant partial discharge on the cable bundles, and

c. Contractor's deficient bolt assemblies, causing the bolts to become dislodged from the micarta panels and separation of the micarta panels themselves.

62. Defendants' acts and omissions constitute a breach of their obligations under the EPC Contracts, including, *inter alia*, the obligations to:

a. perform engineering, design, manufacture and fabrication "in accordance with the requirements of this Agreement" under Section 3.1A;

b. "perform the Work in accordance with GECP" under Section 3.1A, which includes "reasonable and prudent practices, methods, skill, care, techniques and standards" for the engineering, design and construction of LNG facilities;

c. "procure" and "assemble, erect and install all Equipment" under Section 3.2A;

d. "provide … inspection and quality control services" under Section 3.2B;

e. inspect the Work of their Subcontractors and "ensure that such work meets all the requirements of this Agreement" under Section 3.2D;

f. "perform, or cause to be performed, all design and engineering Work in accordance with this Agreement" under Section 3.2R and the equivalent language of Section 3.3A;

g. comply with their Warranty that the Equipment and each component thereof

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shall be "new, complete and of suitable grade for the intended function and use in accordance with this Agreement" under Section 12.1B(1);

h. comply with their Warranty that the Equipment and each component thereof shall be "in accordance with all of the requirements of this Agreement, including in accordance with GECP" under Section 12.1B(2); and

i. comply with their Warranty that the Equipment and each component thereof shall be "free from defects in design, material and workmanship" under Section 12.1B(3).

63. Plaintiffs have been damaged and are entitled to recover all amounts caused by Defendants' breaches of the EPC Contracts.

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

65. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim. Pursuant to Texas Civil Practice & Remedies Code § 38.001, Plaintiffs are entitled to recover its reasonable and necessary attorneys' fees.

VIII. REQUEST FOR RELIEF

66. Plaintiffs respectfully requests that Defendants be cited to appear and answer, and that Plaintiffs be granted judgment including the following relief:

a. all damages caused by Defendants' breaches of the EPC Contracts;

b. pre-judgment and post-judgment interest at the highest allowable rate;

c. costs and reasonable and necessary attorneys' fees; and

d. all other relief to which Plaintiffs are entitled.

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Respectfully Submitted,

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EXHIBIT C

Execution Version

FIXED PRICE SEPARATED TURNKEY AGREEMENT

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

FREEPORT TRAIN 2 LIQUEFACTION PROJECT

by and between

FLNG LIQUEFACTION 2, LLC

as Owner

and

ZACHRY INDUSTRIAL, INC. and CB&I INC.
as Contractor

Dated as of the 10th Day of December, 2013

TABLE OF CONTENTS

RECITALS 1

ARTICLE 1 DEFINITIONS 2

ARTICLE 2 RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS 20
2.1 Status of Contractor 20
2.2 Key Personnel, Organization Chart and Contractor Representative 20
2.3 Subcontractors and Sub-subcontractors 21
2.4 Subcontracts and Sub-subcontracts 22
2.5 Contractor Acknowledgements 24

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES 28
3.1 Scope of Work 28
3.2 Specific Obligations 29
3.3 Design and Engineering Work. 30
3.4 Spare Parts 33
3.5 Training Program in General 34
3.6 Environmental Regulations and Environmental Compliance 34
3.7 Contractor's Tools and Equipment 35
3.8 Employment of Personnel 35
3.9 Clean-up 36
3.10 Safety and Security 37
3.11 Emergencies 39
3.12 Approvals, Certificates, Permits and Licenses 39
3.13 Books, Records and Audits. 39
3.14 Tax Accounting 40
3.15 Temporary Utilities, Roads, Facilities and Storage 41
3.16 Subordination of Liens 41
3.17 Hazardous Materials 41
3.18 Quality Assurance 42
3.19 Reports and Meetings 43
3.20 Payment 44
3.21 Commercial Activities 44
3.22 Title to Materials Found 44
3.23 Survey Control Points and Layout 44
3.24 Cooperation with Others 45
3.25 Scheduled and Unscheduled Activities Involving Existing Facility and the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement 45
3.26 Responsibility for Property 46
3.27 Explosives 47
3.28 Nondiscrimination 47
3.29 Used or Salvaged Materials 47

3.30 Supervision of Owner's Operation Personnel 47
3.31 Use of Owner Equipment or Facilities 48
3.32 Compliance with Real Property Interests 49

ARTICLE 4 OWNER'S RESPONSIBILITIES 49
4.1 Payment 49
4.2 Permits 49
4.3 Access to the Site 49
4.4 Operation Personnel 49
4.5 Texas Sales and Use Taxes 50
4.6 Hazardous Materials 51
4.7 Legal Description and Survey 51
4.8 Owner Provided Items 51

ARTICLE 5 COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS 56
5.1 Commencement of Work 56
5.2 Limited Notice to Proceed/Notice to Proceed 56
5.3 Train 2 Project Schedule 61
5.4 CPM Schedule 61
5.5 Recovery and Recovery Schedule 64
5.6 Acceleration and Acceleration Schedule 66

ARTICLE 6 CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY 67
6.1 Change Orders Requested by Owner 67
6.2 Change Orders Requested by Contractor 69
6.3 Change Orders Requested by FLIQ1 Under the Train 1 EPC Agreement 71
6.4 Contract Price Adjustment; Contractor Documentation 71
6.5 Change Orders Act as Accord and Satisfaction 72
6.6 Timing Requirements for Notifications and Change Order Requests by Contractor 72
6.7 Adjustment Only Through Change Order. 74
6.8 Force Majeure 74
6.9 Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law 75
6.10 Delay 76
6.11 Contractor Obligation to Mitigate Delay 77
6.12 Separated Contract Price Adjustments in Change Orders 77
6.13 Change Orders Affecting Common Development Work or the Common Development Work Compensation 77
6.14 Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement 78
6.15 Adjustment to Schedule Bonus Date 79

ARTICLE 7 CONTRACT PRICE AND PAYMENTS TO CONTRACTOR 80
7.1 Contract Price 80
7.2 Contract Price Components 81

7.3 Interim Payments....82
7.4 Final Completion and Final Payment for Train 2-Specific Work and Common Development Work....84
7.5 Payments Not Acceptance of Work....85
7.6 Payments Withheld....85
7.7 Interest on Late Payments....86
7.8 Work Breakdown Structure....86
7.9 Payment Error....86
7.10 Currency....86
7.11 Conditions Precedent to Payment....87
7.12 Payments to Subcontractors....87
7.13 Retainage and Retention Letter of Credit....87
7.14 Payments by FLIQ CF....89

ARTICLE 8 TITLE AND RISK OF LOSS....89
8.1 Title....89
8.2 Risk of Loss....90

ARTICLE 9 INSURANCE AND LETTER OF CREDIT....92
9.1 Insurance....92
9.2 Irrevocable Standby Letter of Credit....93
9.3 Retention Letter of Credit....94
9.4 Financial Statements....95

ARTICLE 10 OWNERSHIP OF DOCUMENTATION....96
10.1 Ownership of Work Product....96
10.2 Return/Delivery of Certain Property....97
10.3 Contractor's License in Work Product....97
10.4 Owner Provided Documents....98

ARTICLE 11 COMPLETION MILESTONES....98
11.1 Notice and Requirements for RFSU and RLFC....98
11.2 Notice and Requirements for Substantial Completion....101
11.3 Owner Acceptance of RLFC and Substantial Completion....102
11.4 Minimum Acceptance Criteria as a Condition of Substantial Completion....102
11.5 Punchlist....106
11.6 Notice and Requirements for Final Completion....108
11.7 Partial Occupancy....108
11.8 Operations Activities....109
11.9 LNG Tankers Calling on the Facility....109
11.10 Long-Term Obligations....109

ARTICLE 12 WARRANTY AND CORRECTION OF WORK....109
12.1 Warranty....109
12.2 Correction of Work Prior to Substantial Completion of each Phase....111
12.3 Correction of Work After Substantial Completion of each Phase....112
12.4 Assignability of Warranties....113

12.5 Waiver of Implied Warranties 113

ARTICLE 13 GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES 113
13.1 Guarantee of Timely Completion 113
13.2 Delay Liquidated Damages 114
13.3 Schedule Bonus 114

ARTICLE 14 CONTRACTOR'S REPRESENTATIONS 115
14.1 Corporate Standing 115
14.2 No Violation of Law; Litigation 115
14.3 Licenses 115
14.4 No Breach 115
14.5 Corporate Action 115
14.6 Financial Solvency 115

ARTICLE 15 OWNER'S REPRESENTATIONS 116
15.1 Corporate Standing 116
15.2 No Violation of Law; Litigation 116
15.3 Licenses 116
15.4 No Breach 116
15.5 Corporate Action 116
15.6 Financing and Payment 116

ARTICLE 16 DEFAULT, TERMINATION AND SUSPENSION 117
16.1 Default by Contractor 117
16.2 Termination for Convenience by Owner 119
16.3 Suspension of Work 120
16.4 Suspension by Contractor 120
16.5 Termination by Contractor 121
16.6 Termination Due to Extended Force Majeure 121

ARTICLE 17 INDEMNITIES 121
17.1 General Indemnification 121
17.2 Injuries to Contractor's Employees and Damage to Contractor's Property 122
17.3 Injuries to Owner's Employees and Damage to Owner's Property 122
17.4 Owner's Patent and Copyright Indemnification 123
17.5 Contractor's Patent and Copyright Indemnification 123
17.6 Lien Indemnification 123
17.7 Legal Defense 124
17.8 Enforceability 125

ARTICLE 18 DISPUTE RESOLUTION 125
18.1 Negotiation 125
18.2 Mediation 126
18.3 Litigation 126
18.4 Continuation of Work During Dispute 127

ARTICLE 19 CONFIDENTIALITY 127
19.1 Contractor's Obligations 127
19.2 Owner's Obligations 127
19.3 Definitions 128
19.4 Exceptions 128
19.5 Equitable Relief 129
19.6 Term 129

ARTICLE 20 LIMITATION OF LIABILITY 129
20.1 Contractor Aggregate Liability 129
20.2 Damage to the Existing Facility, the Train 1 Expansion after Substantial Completion Under the Train 1 EPC Agreement and the Train 2 Expansion After Substantial Completion 130
20.3 Limitation on Contractor's Liability for Delay Liquidated Damages 130
20.4 Delay Liquidated Damages In General 131
20.5 Consequential Damages 131
20.6 Owner Separate Contracts 132
20.7 Continuing Rights and Obligations 132
20.8 Application of Liability Limitations 132

ARTICLE 21 MISCELLANEOUS PROVISIONS 133
21.1 Entire Agreement 133
21.2 Amendments 133
21.3 Joint Effort 133
21.4 Captions 133
21.5 Notice 133
21.6 Severability 134
21.7 Assignment 135
21.8 No Waiver 135
21.9 Governing Law 135
21.10 Successors and Assigns 135
21.11 Attachments and Schedules 135
21.12 Obligations 135
21.13 Further Assurances 135
21.14 Priority 136
21.15 Restrictions on Public Announcements 136
21.16 Parent Guarantee 136
21.17 Foreign Corrupt Practices Act 136
21.18 Language 137
21.19 Counterparts 137
21.20 Owner's Lender(s) 137
21.21 Joint and Several Liability 137
21.22 Coordination Between this Agreement and Train 1 EPC Agreement 137
21.23 Survival 139

LIST OF ATTACHMENTS AND SCHEDULES

ATTACHMENT A	Scope of Work and Design Basis
SCHEDULE A-1	Scope of Work
SCHEDULE A-2	Design Basis – Pretreatment Facility
SCHEDULE A-3	Design Basis – Liquefaction Facility
ATTACHMENT B	Contractor Deliverables
ATTACHMENT C	Payment Schedule and Work Breakdown Structure Form
SCHEDULE C-1	Payment Milestone Schedule
SCHEDULE C-2	Maximum Cumulative Payment Schedule
SCHEDULE C-3	Form of Work Breakdown Structure
ATTACHMENT D	Form of Change Order
SCHEDULE D-1	Change Order Form
SCHEDULE D-2	Unilateral Change Order Form
SCHEDULE D-3	Contractor's Change Order Request Form
SCHEDULE D-4	Pricing for Change Orders
ATTACHMENT E	Train 2 Project Schedule, Schedule Milestones and Delay Liquidated Damages
ATTACHMENT F	Key Personnel and Contractor's Organization
ATTACHMENT G	Approved Subcontractors and Sub-subcontractors
ATTACHMENT H	Notice to Proceed Forms
SCHEDULE H-1	Form of Limited Notice to Proceed
SCHEDULE H-2	Form of Notice to Proceed
SCHEDULE H-3	LNTP No. 1
ATTACHMENT I	Form of Contractor's Invoices
SCHEDULE I-1	Form of Contractor's Interim Invoice for Train 2-Specific

	Work
SCHEDULE I-2	Form of Contractor's Interim Invoice for Common Development Work
SCHEDULE I-3	Form of Contractor's Final Invoice for Train 2-Specific Work
SCHEDULE I-4	Form of Contractor's Final Invoice for Common Development Work
ATTACHMENT J	Health, Safety, Security and Environmental Management Plan
ATTACHMENT K	Form of Lien and Claim Waivers
SCHEDULE K-1	Contractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-2	Contractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-3	Subcontractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-4	Subcontractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-5	Contractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-6	Contractor's Conditional Claim Waiver and Release on Final Payment
SCHEDULE K-7	Subcontractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-8	Subcontractor's Conditional Claim Waiver and Release on Final Payment
ATTACHMENT L	Form of RFSU Certificate
ATTACHMENT M	Form of Substantial Completion Certificate
ATTACHMENT N	Form of Final Completion Certificate
ATTACHMENT O	Insurance Requirements
ATTACHMENT P	Contractor Permits

ATTACHMENT Q	Owner Permits
ATTACHMENT R	Form of Irrevocable, Standby Letter of Credit and Retention Letter of Credit
SCHEDULE R-1	Form of Irrevocable, Standby Letter of Credit
SCHEDULE R-2	Form of Retention Letter of Credit
ATTACHMENT S	Performance Tests
ATTACHMENT T	Minimum Acceptance Criteria and other Performance Requirements
ATTACHMENT U	Form of Parent Guarantee
ATTACHMENT V	Pre-Commissioning, Commissioning, Start-Up, Training and Turnover Program
ATTACHMENT W	Capital Spare Parts List
ATTACHMENT X	Reporting Requirements
ATTACHMENT Y	Site
SCHEDULE Y-1	Existing Facility Site and Expansion Facility Site on Quintana Island
SCHEDULE Y-2	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas on Quintana Island
SCHEDULE Y-3	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas at the Pretreatment Facility Location
ATTACHMENT Z	Owner-Provided Items
ATTACHMENT AA	Form of RLFC Certificate
ATTACHMENT BB	Subsurface Documents
ATTACHMENT CC	Interfaces and Tie-Ins with Existing Facility
ATTACHMENT DD	Adjustment for Provisional Sums
ATTACHMENT EE	Owner’s Quality Management General Requirements

ATTACHMENT FF	Owner Provided List of Tax Exempt and Taxable Equipment
ATTACHMENT GG	Owner's Texas Direct Pay Exemption Certificate and Texas Sales and Use Tax Exemption Certificate
ATTACHMENT HH	Adjustment for Piles
ATTACHMENT II	Fill for Site
ATTACHMENT JJ	Form of Equipment Sharing Agreement

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 2 LIQUEFACTION PROJECT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 2 LIQUEFACTION PROJECT (this "***Agreement***"), dated as of the 10th Day of December, 2013 (the "***Effective Date***"), is entered into by FLNG Liquefaction 2, LLC, a Delaware limited liability company ("***Owner***"), and CB&I Inc., a Texas corporation, and Zachry Industrial, Inc., a Delaware corporation, with CB&I and Zachry hereinafter collectively referred to as "***Contractor***", and with each of Owner and Contractor sometimes referred to individually herein as a "***Party***" and collectively as the "***Parties***".

RECITALS

WHEREAS, Owner's affiliate, Freeport LNG Development, L.P. ("***FLNG Development***") owns and operates an existing LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas (as defined in greater detail in Section 1.1, the "***Existing Facility***"); and

WHEREAS, Owner intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that will modify, and be interconnected with, the Existing Facility (as more fully described herein, the "***Train 2 Expansion***"). The engineering, procurement, construction, pre-commissioning, commissioning and testing of the Train 2 Expansion is hereby referred to as the "***Train 2 Project***"; and

WHEREAS, another affiliate of Owner, FLNG Liquefaction, LLC ("***FLIQ1***"), intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 2 Expansion (except for the Common Development Work), and will modify, and be interconnected with, the Existing Facility and the Train 2 Expansion as well as share the Common Systems with the Train 2 Expansion and share the Existing Facility Modifications with both the Existing Facility and the Train 2 Expansion (as defined in greater detail in Section 1.1, the "***Train 1 Expansion***"); and

WHEREAS, FLIQ1 intends to develop the Train 1 Expansion pursuant to a fixed price (separated for tax purposes), turnkey engineering, procurement and construction agreement entered into by FLIQ1 and Contractor, dated December 10, 2013 (hereinafter, the "***Train 1 EPC Agreement***");

WHEREAS, CB&I and Zachry, 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 2 Project on a fixed price, turnkey basis (which fixed price is separated for tax purposes).

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

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

"***Abandonment of the Train 2 Project***" means, prior to the acceptance by Owner of the Substantial Completion Certificate, Contractor's express refusal to perform substantially all home office activities and field construction operations in a manner that objectively manifests the intent by Contractor of not completing the Work under this Agreement. For the avoidance of doubt, Contractor shall not be alleged to have implicitly, expressly, or constructively abandoned the Train 2 Project or the Work as a result of Owner terminating Contractor pursuant to Section 16.1 for a Default, other than a Default pursuant to Section 16.1A(iii) for an "Abandonment of the Train 2 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, FLIQ1 Holdings, LLC, FLIQ2 Holdings, LLC, FLIQ3 Holdings, LLC, FLNG Liquefaction 3, LLC and FLNG Development as well as any Affiliate of FLNG Development; *provided further, however*, with respect to Owner, and for purposes of clarity, ConocoPhillips Company shall not be an "Affiliate" of Owner. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

"***Aggregate Provisional Sum***" has the meaning set forth in Section 7.1.

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards

and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality (including the Electric Reliability Council of Texas) 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 or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions of the Train 2 Project, as required under Attachment B.

"***Baseline CPM Schedule***" has the meaning set forth in Section 5.4A.

"***Books and Records***" has the meaning set forth in Section 3.13A.

"***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 United States of America.

"***Btu***" means a British thermal unit.

"***CAD***" has the meaning set forth in Section 3.3E.

"***Capital Spare Parts***" shall mean those spare parts listed in Attachment W for use after Substantial Completion which are to be included in the Work and the Contract Price as further set forth in Section 3.4B.

"***CB&I***" has the meaning set forth in Section 21.21.

"***CB&I Guarantor***" means Chicago Bridge & Iron Company N.V.

"***CenterPoint***" means CenterPoint Energy, or any successor entity thereto.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of

the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1A.

"***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 inventory, revenue, income, profits/losses or cost of finance or withholding Tax) that occurs and takes effect after the Effective Date.

"***Common Contract Price Component***" has the meaning set forth in Section 7.2A.

"***Common Development Work***" means all Work performed under this Agreement to design, engineer, procure, construct, pre-commission, commission and test the Common Systems (including the Expansion Facility Dock and Existing Facility Modifications). The Common Development Work shall include all direct and indirect labor and materials provided to develop the Common Systems, including, permanent materials, bulks and commodities, Subcontractor and Sub-subcontractor supplies and services, construction equipment, supplies, small tools, scaffolding, spare parts, pre-commissioning, commissioning and start-up activities, home office services, project management services, temporary facilities, training, general site services and supplies, temporary utilities, security, and Subcontractor and Sub-subcontractor support, all to the extent necessary for the development of the Common Systems as part of the Expansion Facility. For purposes of clarity, the scope of the Common Development Work under this Agreement shall be the same scope of work defined as "Common Development Work" under the Train 1 EPC Agreement, and Contractor shall be obligated to fully complete such Common Development Work as set forth in this Agreement. While the intent of Owner, Contractor and FLIQ1 is that the Common Development Work under both this Agreement and the Train 1 EPC Agreement is an identical and fully overlapping scope of work, in the event of a conflict or discrepancy between this Agreement and the Train 1 EPC Agreement with respect to such Common Development Work, Owner and FLIQ1 shall jointly resolve such conflict or discrepancy and Owner will direct Contractor accordingly under this Agreement and FLIQ1 will direct Contractor accordingly under the Train 1 EPC Agreement.

"***Common Development Work Compensation***" has the meaning set forth in Section 7.2A.

"***Common Systems***" means those portions of the Work which will be utilized by both the Train 1 Expansion and Train 2 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Expansion Facility Dock and Existing Facility Modifications. The applicable Common Systems will be designed, procured and constructed such that both the Train 1 Expansion and Train 2 Expansion may be operated simultaneously or individually at the design conditions set forth in this Agreement (with respect to the Train 2 Expansion) and the design conditions set forth in the Train 1 EPC Agreement (with respect to the Train 1 Expansion). The Common Systems are listed in Sections 4.1.1 and 4.2.1 of Schedule A-1.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Contract Price***" has the meaning set forth in Section 7.1. For purposes of clarity, the Contract Price shall equal the sum of the Train 2-Specific Contract Price Component and the Common Contract Price Component.

"***Contract Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, its limited or general partners, its members and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, employees, representatives and invitees of each Person specified in clause (i) above. A "Contractor Indemnified Party" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work, except for any limitations specified in such notice.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

"***Contractor's Intellectual Property***" has the meaning set forth in Section 10.1B.

"***Corrective Work***" has the meaning set forth in Section 12.3.

"***CPM Schedule***" means the Baseline CPM Schedule (as it may be updated from time to time in accordance with this Agreement) or Monthly Updated CPM Schedules, as the context requires.

"***Cure Period***" has the meaning set forth in Section 16.1A.1.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1A.

"***Defect***" or "***Defective***" has the meaning set forth in Section 12.1A.

"***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; *provided that*, (i) the Defect Correction Period for that portion of the Common Systems that achieves substantial completion under the Train 1 EPC Agreement shall extend until eighteen (18) months from the date of substantial completion established under the Train 1 EPC Agreement (as such period may be extended pursuant to the Train 1 EPC Agreement) and (ii) notwithstanding the foregoing, with respect to the Existing Facility Modifications, the Defect Correction Period shall be the period commencing upon

Handover of the applicable Existing Facility Modifications and ending eighteen (18) months thereafter, as may be extended in accordance with Section 12.3B.

"***Defective MCHE***" means, for purposes of Section 11.4B only, an MCHE that fails to achieve its performance guarantees as fully defined in the equipment purchase agreement for the MCHE between APCI and Contractor. For all other purposes within the Agreement, a Defective MCHE shall mean an MCHE that has a Defect as defined in Section 12.1A.

"***Delay Liquidated Damages***" shall mean any or all of the (a) RLFC Delay Liquidated Damages, (b) Substantial Completion Delay Liquidated Damages, (c) Record As-Built Delivery Requirement Delay Liquidated Damages or (d) MCHE Replacement Delay Liquidated Damages, as the context requires.

"***Design Basis***" means the basis of design and technical limits and parameters of the Expansion Facility as set forth in Schedules A-2 and A-3.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" has the meaning set forth in Section 18.1.

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***Equipment***" means all equipment and materials required for incorporation into the Train 2 Expansion.

"***Equipment Sharing Agreement***" means that certain Equipment Sharing Agreement to be executed by Owner, FLIQ CF, Contractor, FLIQ1 and other signatories relating to the sharing of items of equipment among Owner, FLIQ CF, FLIQ1 and other signatories, which such Equipment Sharing Agreement shall be substantially in the form attached hereto as Attachment JJ.

"***Existing Facility***" means Owner's Affiliates' (including FLNG Development and its Affiliates) existing (i) LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas, (ii) Stratton Ridge natural gas metering station, (iii) forty-two inch (42") diameter natural gas pipeline connecting the Stratton Ridge natural gas metering station to the terminal on Quintana Island, and (iv) underground natural gas storage cavern located near Stratton Ridge and its related natural gas storage infrastructure and compression facilities.

"***Existing Facility Modifications***" has the meaning set forth in Section 11.2A.

"***Existing Facility Site***" means those areas where the Existing Facility is located as shown

in greater detail in Schedule Y-1.

"***Expansion Facility***" means both the Train 1 Expansion and Train 2 Expansion, including all Common Systems.

"***Expansion Facility Dock***" means the LNG loading and unloading dock to be constructed as part of the Expansion Facility, including all marine piling, concrete structures, mooring dolphins, and topside Equipment, as further described in Section 4.12.5 of Schedule A-1.

"***Expansion Facility Dock Price***" means Thirty Four Million One Hundred Seventy Eight Thousand Five Hundred Seventy-Eight U.S. Dollars ($34,178,578), as such value may be adjusted from time to time by Change Orders executed by the Parties in accordance with this Agreement.

"***Expansion Facility Site***" means those areas comprised of the Train 1 Expansion Site, Train 2 Expansion Site and other Expansion Facility Site areas as shown in greater detail in Attachment Y.

"***Facility***" means both the Expansion Facility and the Existing Facility.

"***FEED Agreement***" means the Front End Engineering Design Services Agreement between Freeport LNG Expansion, L.P. and Contractor, dated January 30, 2012.

"***FERC***" means the Federal Energy Regulatory Commission.

"***FERC Order***" means the Order Granting Authorization under Section 3 of the Natural Gas Act, issued by FERC to Owner in connection with the Expansion Facility, as may be amended or modified.

"***Final Completion***" means that all Work and all other obligations under the Agreement (except for those obligations that survive the termination or expiration of this Agreement, including obligations for Warranties, correction of Defective Work and those covered, without limitation, by Section 11.10), are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of RLFC and Substantial Completion; (ii) the completion of all Punchlist items; (iii) the successful achievement of the MCHE Power Performance Guarantee or, if the MCHE Power Performance Guarantee was not achieved but the Total Gas Horsepower (as determined in accordance with Attachments S and T) was equal to or less than 105% of the MCHE Power Performance Guarantee, the MCHE Power Performance Guarantee Liquidated Damages in accordance with Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (iv) the successful achievement of the Gross Power Output Performance Guarantee and Gross Heat Rate Performance Guarantee (as described in Attachments S and T), or in the case that either such Performance Guarantee has not been achieved, the Gross Power Output Performance Liquidated Damages and Gross Heat Rate Performance Liquidated Damages, as applicable, due and owing as set forth in Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (v) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers in the forms of Schedules K-5 and K-6; (vi) delivery by

Contractor to Owner of all remaining documentation required to be delivered under this Agreement, including Owner's Confidential Information, test reports and the documentation required under Attachment B and Attachment EE; (vii) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractor's personnel, supplies, waste, materials, equipment (except Equipment), rubbish, Hazardous Materials, and temporary facilities; (viii) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers from all Major Subcontractors in the forms in Schedules K-7 and K-8; (ix) if requested by Owner, fully executed Final Lien and Claim Waivers from Major Sub-subcontractors in a forms substantially similar to the forms in Schedule K-7 and K-8; and (x) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 11.6, which Owner has accepted by signing such certificate.

"***Final Completion Certificate***" has the meaning set forth in Section 11.6.

"***Final Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.4, which shall be in the form of Attachment K, Schedules K-5, K-6, K-7 and K-8.

"***First RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Fixed Sum Prices***" has the meaning set forth in Attachment DD.

"***FLIQ CF***" means FLIQ Common Facilities, LLC.

"***FLIQ1***" has the meaning set forth in the Recitals.

"***FLNG Development***" has the meaning set forth in the Recitals.

"***Force Majeure***" means catastrophic storms (including ice storms) or flooding, lightning, tornadoes, hurricanes, named tropical storms, earthquakes and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, was not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship, (ii) changes in market conditions, (iii) late delivery or failure of materials, equipment (including Equipment) or supplies unless due to a Force Majeure event, (iv) strikes, or other similar labor actions of Contractor or its Subcontractors or Sub-subcontractors, except Subcontractors (or their associated Sub-subcontractors) providing the main cryogenic heat exchanger, refrigeration compressor packages, major inline cryogenic valves or non-U.S. liquefaction air coolers, *provided that* with respect to the foregoing excepted Subcontractors and Sub-subcontractors, Contractor's relief for such

strikes or other similar labor actions shall be limited to an extension to the Guaranteed Substantial Completion Date and the Required Final Completion Date pursuant to Section 6.8A.1 (and does not include adjustments to the Contract Price pursuant to Section 6.8A.2(b)), (v) unavailability of laborers, Subcontractors or Sub-subcontractors, or (vi) climatic conditions (including rain, snow, wind, temperature and other weather conditions), tides, and seasons, regardless of the magnitude, severity, duration or frequency of such climatic conditions, tides or seasons, *provided that* such climatic conditions, tides and seasons do not include catastrophic storms (including ice storms) or floods, lightning, tornadoes, hurricanes, named tropical storms or earthquakes meeting the requirements of a Force Majeure, or (vii) nonperformance or delay by Contractor or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay is otherwise caused by a Force Majeure.

"***Fourth RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards employed by the liquefied natural gas engineering and construction industries with respect to: (i) the engineering, procurement, construction, pre-commissioning, commissioning, testing and start-up of natural gas treatment and liquefaction facilities in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A. For clarification, GECP does not necessarily require compliance with the World Bank's noise guidelines, but Contractor shall nevertheless comply with noise levels and guidelines required by Permits, Applicable Law and Applicable Codes and Standards.

"***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.

"***Gross Negligence or Willful Misconduct***" shall have the meanings as determined under the governing law of this Agreement as set forth in Section 21.9.

"***Guaranteed Record As-Built Delivery Date***" has the meaning set forth in Section 3.3F.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3A.

"***Guarantor***" means CB&I Guarantor and Zachry Guarantor.

"***Handover***" has the meaning set forth in Section 11.2A. For purposes of clarity, the phrase "***Handed Over***" shall have the same meaning as Handover.

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***IFC***" has the meaning set forth in Section 5.4A.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Intellectual Property Rights***" means patents, utility models, registered designs and models, trademarks, trade secrets, service marks, copyrights, applications for any of the foregoing and rights to apply for any of the foregoing, proprietary information and know-how, whether patentable or not, and any similar right.

"***Interim Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.3C, which shall be in the form of Attachment K, Schedules K-1, K-2, K-3 and K-4.

"***Investment Grade***" has the meaning set forth in Section 9.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.3 for a progress payment and pursuant to Section 7.4 for final payment, which invoice shall be in the form of Schedule I-1 or I-2, as applicable for progress payments and Schedule I-3 or I-4, as applicable, for final payment.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2A.

"***Labor and Skills Price***" has the meaning set forth in Section 7.1C.

"***Lender***" means any entity or entities providing temporary or permanent debt financing for the Expansion Facility.

"***Letter of Credit***" has the meaning set forth in Section 9.2.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 3.3B.

"***LNG***" means liquefied Natural Gas.

"***LNG Evacuation Requirement***" has the meaning set forth in Section 4.8D.

"***LNG Production Rate***" means the average hourly LNG rundown rate over the 72-hour LNG Production Rate Performance Test measured at the outlet of the LNG liquefaction unit (at the final flow measuring device downstream of the MCHE prior to entering the common rundown header). The LNG Production Rate shall be established in a continuous 72-hour LNG Production Rate Performance Test without any process trips.

"***LNG Production Rate MAC***" means the Train 2 Expansion is capable of achieving an average (continuous, without any process trips) hourly LNG rundown rate equivalent to 566.8 metric tonnes per hour, when processing natural gas at the condition and of the composition defined in the design case (average gas) at an ambient Site temperature of 71 degrees Fahrenheit during the 72-hour LNG Production Rate Performance Test.

"***LNG Production Rate Performance Test***" has the meaning set forth in Attachment S.

"***LNG Tanker***" means any ocean-going vessel used by Owner, a customer of the Facility or their designee for the transportation of LNG.

"***LNTP No. 1***" has the meaning set forth in Section 5.2A.

"***LNTP No. 2***" has the meaning set forth in Section 5.2A.2.

"***LNTP No. 3***" has the meaning set forth in Section 5.2A.3.

"***Major Subcontract***" means any Subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Subcontractor for Work listed in Section 3 of Attachment G.

"***Major Subcontractor***" means the Subcontractors listed as such in Attachment G and, in addition, any Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means any Sub-subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Sub-subcontractor for Work listed in Section 3 of Attachment G.

"***Major Sub-subcontractor***" means the Sub-subcontractors listed as such in Attachment G and, in addition, any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Maximum Cumulative Payment Schedule***" has the meaning set forth in Section 7.3F.

"***MCHE***" means the main cryogenic heat exchanger for the Train 2 Expansion.

"***MCHE Power Performance Guarantee***" has the meaning set forth in Attachment T.

"***MCHE Power Performance Guarantee Liquidated Damages***" has the meaning set forth in Attachment T.

"***MCHE Replacement Delay Liquidated Damages***" has the meaning set forth in Section 11.4B.2.

"***MCHE Replacement Scenario***" has the meaning set forth in Section 11.4B.

"***MCHE Replacement Scenario Verification Notice***" has the meaning set forth in Section 11.4B.1.

"***Minimum Acceptance Criteria***" or "***MAC***" means the LNG Production Rate MAC, the Ship Loading Rate MAC for the Existing Facility's LNG loading dock and the Ship Loading Rate MAC for the Expansion Facility Dock, all as further specified in Attachment T.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 11.4A.

"***Minimum Acceptance Criteria Testing Conditions***" are the Performance Test conditions set forth in Attachment S.

"***MMBtu***" means one million (1,000,000) Btus.

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring, or an action taken, once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.19A.4.

"***Monthly Updated CPM Schedule***" has the meaning set forth in Section 5.4B.

"***Notice to Proceed***" or "***NTP***" has the meaning set forth in Section 3.3B.

"***NTP Exchange Rate***" has the meaning set forth in Section 7.10.

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) Owner, its parent, its limited or general partners, its members, Lenders, ConocoPhillips Company, any other Persons with an ownership interest in the Expansion Facility or the Existing Facility and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Mark Mallett as the Owner Representative. Notification of a change in Owner Representative shall be provided in advance, in writing, to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.16.

"***Party***" or "***Parties***" means Owner and/or Contractor and their successors and permitted assigns.

"***Payment Milestone***" means a designated portion of the Work as shown the Payment Milestone Schedule.

"***Payment Milestone Schedule***" means the schedule set forth in Schedule C-1, which sets out the payments to be paid based on completion of the Payment Milestones.

"***Performance Guarantee***" means the MCHE Power Performance Guarantee, Gross Power Output Performance Guarantee and the Gross Heat Rate Performance Guarantee, as further set forth in Attachment T.

"***Performance Liquidated Damages***" shall mean the Gross Power Output Performance Liquidated Damages, the Gross Heat Rate Performance Liquidated Damages and the MCHE Power Performance Liquidated Damages, as further set forth in Attachment T.

"***Performance Tests***" means those tests performed to determine whether the Minimum Acceptance Criteria and Performance Guarantees have been achieved for the Train 2 Expansion, which tests shall be set forth in Attachment S and, to the extent not specified therein, as developed in accordance with Section 11.2.

"***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.

"***Person***" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.

"***Piles***" has the meaning set forth in Section 2.5B.2(i).

"***Provisional Substantial Completion***" has the meaning set forth in Section 11.4B.6.

"***Provisional Sum***" has the meaning set forth in Attachment DD.

"***Provisional Sum Scope Items***" has the meaning set forth in Attachment DD.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Facility, as more fully described in Section 11.5 of this Agreement.

"***Qualified Force Majeure Event***" has the meaning set forth in Section 6.8A.2(b).

"***Quality Management System***" means the system, including quality plans and procedures, used by Contractor to direct and control its organization with regard to quality, the requirements of which are set forth in Section 3.18 and Attachment EE.

"***Ready for Startup***" or "***RFSU***" means that all of the following have occurred with respect to the applicable system or subsystem of the Equipment for the Train 2 Project: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment (including all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) for such applicable system or subsystem of the Equipment to ensure that all such Equipment was fabricated, assembled, erected and installed and is capable of being properly operated, all within the requirements and specifications contained in this Agreement (and without damage to the Work, the Facility or any other property and without injury to any Person), all as set forth in greater detail in Attachment A and the RFSU checklists agreed by Owner and Contractor in accordance with Section 11.1A; (ii) Contractor and Owner have agreed upon an initial Punchlist of items as set forth in Section 11.5A and those Punchlist items necessary for achieving RFSU have been successfully completed by Contractor (including all A and B classified Punchlist items); (iii) Contractor has delivered to Owner an RFSU Certificate for the applicable system or subsystem in the form of Attachment L; (iv) Contractor has provided Owner with all documentation for RFSU, including the System Compilation Manuals, as required under Attachment B; (v) the requirements related to RFSU set forth in Attachment V (including the prestart-up safety review and walk-down between Owner and Contractor) have been achieved and the Owner approvals related thereto have been given; and (vi) the quality requirements of Attachment EE related to RFSU have been successfully completed and related documentation provided to Owner.

"***RFSU of the Train 2 Expansion***" shall mean that RFSU has been achieved for all systems and subsystems of the Train 2 Expansion.

"***Ready To Load First Cargo***" or "***RLFC***" means that all of the following have occurred with respect to the Train 2 Expansion: (i) the successful achievement of Ready For Start Up of all systems and subsystems of all Equipment; (ii) Contractor has completed all

procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment and all systems and subsystems of all Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up, to ensure that the Work (including all Common Systems) and each component thereof was correctly fabricated, assembled, erected and installed, has been correctly integrated into the Existing Facility and the Train 1 Expansion, and is capable of being operated within the requirements contained in this Agreement and without damage to the Work, the Facility, any other property or the environment and without injury to any Person, as set forth in greater detail in Attachment A; (iii) Contractor has successfully completed the process of drying out and purging all systems and subsystems; (iv) the Train 2 Expansion meets the additional requirements for RLFC set forth in Attachment A and Attachment V; (v) the Train 2 Expansion has liquefied natural gas into at least 150,000 m^3 of LNG meeting all specifications and requirements of this Agreement (other than the Minimum Acceptance Criteria and Performance Guarantees) and successfully transferred and stored such LNG into the Existing Facility's LNG storage tank; (vi) all LNG loading and unloading lines (and Equipment and systems related thereto) necessary for transfer of LNG from the Existing Facility's LNG storage tank to the Existing Facility's dock and the Expansion Facility Dock, have been cooled down and are ready for transfer of LNG to an LNG Tanker; (vii) the Expansion Facility Dock is ready and capable, in all respects, to safely dock an LNG Tanker and load LNG onto such LNG Tanker; (viii) Contractor has completed all Punchlist items necessary for achievement of RLFC pursuant to Section 11.5B and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5B; and (ix) Contractor has delivered to Owner an RLFC Certificate in the form of Attachment AA and Owner has accepted such certificate by signing such certificate.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Delivery Requirement***" has the meaning set forth in Section 3.3F.

"***Record As-Built Delivery Requirement Delay Liquidated Damages***" has the meaning set forth in Section 13.2B.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications of the Train 2 Project showing the "as-built" conditions of the Train 2 Expansion, as required under Attachment B.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means that certain information provided by Owner, which is expressly identified in Attachment Z as being Rely Upon Information, that Contractor shall be entitled to rely upon in the performance of the Work under this Agreement.

"***Replacement Timeline***" has the meaning set forth in Section 11.4B.2.

"***Required Final Completion Date***" has the meaning set forth in Section 5.3B.

"***Retainage***" has the meaning set forth in Section 7.13A.

"***Retention Letter of Credit***" has the meaning set forth in Section 9.3.

"***RFSU Certificate***" has the meaning set forth in Section 11.1A.

"***RLFC Certificate***" is the Contractor certification for achievement of RLFC in the form set forth in Attachment AA.

"***RLFC Delay Liquidated Damages***" has the meaning set forth in Section 11.1D.1.

"***Schedule Adjustment Items***" has the meaning set forth in Attachment DD.

"***Schedule Bonus Date***" means 1,645 Days following Contractor's receipt of LNTP No. 3. The Schedule Bonus Date shall only be adjusted by Change Order as provided in this Agreement, including as allowed by Attachment DD.

"***Schedule Milestones***" means those milestones for completion of certain portions of the Work as further set forth in Attachment E.

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Attachment A.

"***Second RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Senior Supervisory Personnel***" means the following positions of Contractor's project management team: (i) Project Executive, (ii) Project Manager, (iii) Engineering Manager, (iv) Site Construction Director, (v) Deputy Site Construction Director, (vi) Commissioning & Start-up Manager, (vii) Safety Manager, (viii) Procurement Manager, (ix) Project Controls Manager and (x) QA/QC Manager.

"***Ship Loading Performance Test***" has the meaning set forth in Attachment S.

"***Ship Loading Rate MAC***" has the meaning set forth in Attachment S.

"***Site***" means the Expansion Facility Site and the Existing Facility Site together, as further described in Attachment Y.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct contract with Contractor to manufacture or supply Equipment which is a portion of the Work, to lease equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or materials.

"***Substantial Completion***" means that all of the following have occurred with respect to the Train 2 Expansion: (i) Ready For Start Up has been achieved for all systems and subsystems of Equipment for the Train 2 Expansion; (ii) RLFC has been achieved and the RLFC Certificate has been delivered by Contractor to Owner and Owner has accepted such certificate by signing such certificate; (iii) all Minimum Acceptance Criteria have been achieved (including the Minimum Acceptance Criteria for the Expansion Facility Dock); (iv) Contractor has completed all items on the Punchlist that are required to achieve Substantial Completion and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5C; (v) any RLFC Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (vi) the Work has been completed (including training, manuals and the delivery of all documentation required for operation), except for Work on the Punchlist; (vii) Contractor has delivered to Owner the Substantial Completion Certificate in the form of Attachment M and as required under Section 11.2 and Owner has accepted such certificate by signing such certificate; (viii) the Train 2 Expansion has been integrated into the Existing Facility and Train 1 Expansion and is available for full commercial operation, including loading of LNG Tankers from the Expansion Facility Dock or Existing Facility LNG loading dock, in accordance with the requirements of this Agreement; (ix) Contractor has obtained all Permits for the Train 2 Expansion required by Section 3.12; (x) Contractor has delivered to Owner fully executed Interim Lien and Claim Waivers in the forms of Schedules K-1 and K-2, fully executed Interim Lien and Claim Waivers from all Major Subcontractors in the forms of Schedules K-3 and K-4 and, if requested by Owner, fully executed Interim Lien and Claim Waivers from all Major Sub-subcontractors substantially in the forms of Schedules K-3 and K-4, covering all Work up to the date of Substantial Completion; (xi) Contractor has assigned to or provided Owner with all Warranties related to the Work to the extent Contractor is obligated to do so pursuant to this Agreement; (xii) Contractor has delivered all documentation to Owner which it is required under the Agreement to provide at or prior to Substantial Completion pursuant to Attachment B; and (xiii) the quality requirements of Attachment EE related to Substantial Completion have been successfully completed and related documentation provided to Owner.

"***Substantial Completion Certificate***" is the Contractor certification for achievement of Substantial Completion in the form set forth in Attachment M.

"***Substantial Completion Delay Liquidated Damages***" has the meaning set forth in Section 13.2A.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Equipment which comprises a portion of the Work, to lease equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to

perform a portion of the Work or to otherwise furnish labor, materials or equipment (including Equipment).

"***Tax Exempt Equipment***" has the meaning set forth in Section 4.5A.2.

"***Tax Exempt Equipment Price***" has the meaning set forth in Section 7.1A.

"***Taxable Equipment***" has the meaning set forth in Section 7.1B.

"***Taxable Equipment Price***" has the meaning set forth in Section 7.1B.

"***Taxes***" means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes (excluding any Texas state and applicable local sales and use taxes on Tax Exempt Equipment and Taxable Equipment), gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium**,** franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

"***Third Party Proprietary Work Product***" has the meaning set forth in Section 10.1B.

"***Third RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Train 1 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 1 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under the Train 1 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems (including the Expansion Facility Dock and the Existing Facility Modifications) and other systems, all as further set forth in the Train 1 EPC Agreement. For purposes of clarity, the Train 1 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 1 Expansion Site***" means those areas where the Train 1 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 1-Specific Work***" means work performed under the Train 1 EPC Agreement by or on behalf of Contractor that is not also part of the Work performed under this Agreement.

"***Train 2 Expansion***" means the facilities, and all appurtenances related thereto, to be designed, procured and constructed under this Agreement in order to meet the Minimum Acceptance Criteria and the Performance Guarantees and includes a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems (including the Expansion Facility Dock and Existing Facility Modifications) and

all other systems, all as further set forth in this Agreement (particularly Attachment A). For purposes of clarity, the Train 2 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 2 Expansion Site***" means those areas where the Train 2 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 2 Project***" has the meaning set forth in the Recitals.

"***Train 2 Project Schedule***" means the schedule of dates in which Contractor is required to achieve certain stages of completion of the Train 2 Expansion, including the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Guaranteed Record As-Built Delivery Date and the Schedule Milestones, as more particularly described in Sections 3.3F and 5.3 and Attachment E.

"***Train 2-Specific Contract Price Component***" has the meaning set forth in Section 7.2B.

"***Train 2-Specific Work***" means that portion of the Work that directly benefits, or is necessary for, the Train 2 Expansion only and does not provide any benefit, and is not otherwise necessary, for the Train 1 Expansion. For clarity, the Train 2-Specific Work is all Work performed under this Agreement that is not Common Development Work.

"***Unforeseen Subsurface Condition***" means any unforeseen (i) caverns or seismic faults, (ii) material subsurface obstructions, whether manmade or natural, or (iii) subsurface fossils, antiquities or other archeological finds, which, in the case of any of the above, were encountered by Contractor in the performance of the Work and (a) were not identified in any soils information or any other documents provided to Contractor by Owner, (b) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections, investigations or work performed by Contractor or any of its Subcontractors or Sub-subcontractors prior to the Effective Date and (c) with respect to (i) and (ii) only, are materially different from those that are reasonably expected to be encountered due to the nature of the Site.

"***Updated Contract Price and Train 2 Project Schedule Proposal***" has the meaning set forth in Section 5.2C.3.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Value of Foreign Currency***" has the meaning set forth in Section 7.10B.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 12.1A.

"***Weekly Progress Report***" has the meaning set forth in Section 3.19A.3.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, procurement, engineering, design, fabrication, erection, installation, manufacture,

delivery, transportation, storage, construction, workmanship, labor, pre-commissioning, commissioning, inspection, training, Performance Tests, other tests, start-up and any other services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1A and any Corrective Work. Without limiting the foregoing, the Work is comprised of the Train 2-Specific Work and the Common Development Work.

"***Work Breakdown Structure***" has the meaning set forth in Section 7.8.

"***Work Product***" has the meaning set forth in Section 10.1A.

"***30 Day Look-ahead Schedule***" has the meaning set forth in Section 5.4D.

"***Zachry***" has the meaning set forth in Section 21.21.

"***Zachry Guarantor***" means Zachry Holdings, Inc.

1.2 The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement.

ARTICLE 2
RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 **Status of Contractor**. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative**.

A. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization

who will be assigned to the Work. For clarity, the Parties agree and acknowledge that the Key Personnel shall include the Senior Supervisory Personnel in addition to those personnel identified in Attachment F. Owner and Contractor acknowledge and agree the continuity of Key Personnel on this Train 2 Project is a material requirement of this Agreement and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work. Key Personnel shall be devoted full-time to the Work for the applicable period of time specified in Attachment F (*provided that*, Owner acknowledges that a Key Person performing functions related to the Train 2 Project and Common Development Work may also be performing work under a similar role under the Train 1 EPC Agreement), and Key Personnel shall not be removed or reassigned without Owner's prior written approval. All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and the resumes of professional education and experience for a minimum of two (2) candidates of suitable qualifications and experience. Should Owner approve of the replacement of a Key Person, Contractor shall allow for an overlap of two (2) weeks during which both the Key Person to be replaced and the Owner-approved new Key Person shall work together full time. The additional cost of any replacement of such Key Personnel and overlap time shall be entirely at Contractor's expense. Owner has the right, but not the obligation, to require Contractor to remove or cause to be removed a Key Person who is not, in Owner's reasonable judgment, using GECP in the performance of the portion of the Work assigned to such Key Person. Unless the Parties otherwise agree in writing, the Persons identified as Key Persons under this Agreement that are dedicated to the management of Common Development Work shall also be Key Persons under the Train 1 EPC Agreement dedicated to the same Common Development Work.

B. ***Contractor Representative***. Contractor designates Chet Lloyd as the Contractor Representative. The Contractor Representative is a Key Person. The Contractor Representative under this Agreement and the Train 1 EPC Agreement shall be the same Person unless otherwise agreed by Owner in writing.

2.3 **Subcontractors and Sub-subcontractors**. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. Except as otherwise set forth in this Agreement, the provisions of Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the provisions of this Agreement. The provisions of any Subcontract or Sub-subcontract shall not relieve Contractor of any obligations to perform the Work or of its responsibility for each Subcontractor and Sub-subcontractor. NO SUBCONTRACTOR OR SUB-SUBCONTRACTOR IS INTENDED TO BE OR SHALL BE DEEMED A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly used by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor in the performance of the Work. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner or Lender to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel

that are performing Work at the Site are to be instructed by Contractor in the terms and requirements of Owner-approved safety and environmental protection policies and procedures for Work at the Site and shall be expected to comply with such policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Contract Price or Train 2 Project Schedule as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall (i) create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or (ii) obligate Owner to pay or cause the payment of any amounts to any Subcontractor or Sub-subcontractor. For purposes of sales and use taxes for the State of Texas, all Subcontracts and Sub-subcontracts will be separated contracts pursuant to Tex. Tax Code § 151.056(b) and 34 Tex. Admin. Code Rule § 3.291(a)(13). In addition, all Subcontract and Sub-subcontract documentation (including scope of work, cost and schedule-related information) shall be capable of being segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

2.4 **Subcontracts and Sub-subcontracts**.

A. ***Approved List***. Part I of Attachment G sets forth a list of Subcontractors and Sub-subcontractors that Contractor and Owner have agreed are approved Subcontractors and Sub-subcontractors for the performance of that portion of the Work specified in Part I of Attachment G. As further set forth in Attachment G, a Subcontractor or Sub-subcontractor that is listed in Part I shall be utilized for the applicable portion of the Work unless Owner otherwise agrees in writing. Part II of Attachment G sets forth portions of the Work whose Subcontractors and Sub-subcontractors may not otherwise meet the value thresholds to be Major Subcontractors or Major Sub-subcontractors but that the Parties nevertheless agree that such Subcontractors and Sub-subcontractors are Major Subcontractors and Major Sub-subcontractors for purposes of performing such Work scopes. Approval by Owner of any Subcontractors or Sub-subcontractors does not relieve Contractor of any responsibilities under this Agreement.

B. ***Additional Proposed Major Subcontractors and Major Sub-subcontractors***. In the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor not listed on Attachment G that would qualify as a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids (with pricing redacted) of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fourteen (14) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor not listed on Attachment G. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor not listed on Attachment G for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major

Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4B expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fourteen (14) Days shall be deemed to be a rejection of such Major Subcontractor or Major Sub-subcontractor.

C. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Sections 2.4A or 2.4B, Contractor shall, prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing.

D. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts (which price may be redacted from such copies) within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts (which price may be redacted from such copies). Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement or approval of or acquiescence in a breach hereunder.

E. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors used in the performance of the Work, Contractor shall:

1. Include in each Major Subcontract and each Major Sub-subcontract a provision that each such Major Subcontract and Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2. Use reasonable commercial efforts to include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract; *provided, however*, as a minimum (and without relieving Contractor of its responsibility for each Major Subcontractor and Major Sub-subcontractor), Contractor must include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to substantially comply with and perform for the benefit of Owner the following requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are

applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract:

(i) For all Major Subcontractors and Major Sub-subcontractors: Article 10 and Article 19; Sections 2.5C, 3.3, 3.8, 3.13, 3.16, 3.18, 8.1, 16.2, 16.3, 17.1B, 21.15, 21.17 and 21.18; for Interim Lien and Claim Waivers in Section 7.3D and Final Lien and Claim Waivers in Section 7.4 (except Interim and Final Lien and Claim Waivers are not required from Sub-subcontractors who are Equipment suppliers or manufacturers that do not perform Work at the Site); and in substance the same as Section 2.3, including that there is no contractual relationship between Owner and any Major Subcontractor or Major Sub-subcontractor and that Owner has no obligation to pay or cause to pay the payment to any Major Subcontractor or Major Sub-subcontractor.

(ii) For all Major Subcontractors and Major Sub-subcontractors performing Work at the Site: Article 17 (except for Section 17.1B) and Sections 3.6, 3.7, 3.10, 3.17, 3.24, 3.25, 3.27, 9.1, and Attachment O, in addition to the requirements and obligations set forth in Section 2.4E.2(i).

F. ***Owner's Right to Terminate***. Owner shall be entitled to require Contractor to immediately terminate any Subcontract or Sub-subcontract if any Subcontractor or Sub-subcontractor (as applicable) fails to comply in any material respect with the policies and procedures set forth in Attachment J, persists in any conduct which is prejudicial to safety, health or the protection of the environment, or fails to perform the Work in accordance with the safety and health rules and standards of Applicable Law. Contractor agrees that it shall have no right, and hereby waives any such right, to claim any increase to the Contract Price or an adjustment to the Train 2 Project Schedule arising out of or due to any such termination.

2.5 **Contractor Acknowledgements**.

A. ***The Agreement***. Prior to the execution of this Agreement, Contractor performed engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work and Design Basis listed in Attachment A, which was performed pursuant to the FEED Agreement. Owner has relied upon Contractor's expertise in developing and providing such information. Except with respect to Rely Upon Information identified in Attachment Z, Contractor hereby warrants and represents that such information and the attached Scope of Work and the Design Basis in Attachment A are accurate, adequate and complete for Contractor to engineer, procure, construct, pre-commission, commission, start-up and test a fully operational natural gas treatment, liquefaction, storage and terminal facility for the Contract Price, within the required times set forth in the Train 2 Project Schedule, and in accordance with all requirements of this Agreement, including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees, and

that with respect to any information (if any) not so developed or provided by Contractor which is contained in or referenced in Attachment A, Contractor has examined all such information and has determined that it is accurate, adequate and complete. Accordingly, with the exception of Rely Upon Information set forth in Attachment Z, Contractor hereby agrees that it shall have no right to claim or seek an increase in the Contract Price or an adjustment to the Train 2 Project Schedule with respect to any incomplete, inaccurate or inadequate information or requirements that may be contained or referenced in Attachment A, and hereby waives and releases Owner from and against such claims. Owner makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any such information that is contained or referenced in Attachment A.

B. ***Conditions of the Site***.

1. In addition to Section 2.5A, Contractor further agrees and acknowledges that it has made all investigations and inspections that it deems necessary to perform the Work in accordance with the Train 2 Project Schedule, has conducted a review of all Site leases and easements that have been provided to Contractor by Owner, and is familiar with the climate, terrain and other difficulties that it may encounter in performing the Work in accordance with the Train 2 Project Schedule. Contractor has the experience, resources, qualifications and capabilities to perform the Work in accordance with the Train 2 Project Schedule. Except as provided for in Sections 2.5B.2, 2.5B.3 and 6.8A, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Contract Price or the Train 2 Project Schedule in respect of, any failure to timely perform the Work in accordance with the Train 2 Project Schedule as a result of any conditions at the Site or at any other location where the Work is performed, including: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions; (ii) climatic conditions, tides, and seasons (excluding Force Majeure events); (iii) availability of laborers, Subcontractors, Sub-subcontractors, equipment or any other items or supplies; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of equipment under the control of or provided by Contractor or its Subcontractors or Sub-subcontractors.

2. Contractor assumes all risks related to, and waives any right to claim an adjustment for, any and all subsurface conditions of whatever nature or condition, except as expressly provided in this Section 2.5B.2:

(i) *Piles.* The Contract Price and Train 2 Project Schedule are based on 20,192 total piles, having the composition, size and length shown in Section 1 of Attachment HH, supporting all portions of the Train 2 Expansion ("***Piles***"). In accordance with Section 2 of Attachment HH, Contractor shall conduct pile tests on an area by area basis to confirm the number, size, length and type of the Piles in accordance with Section 2 of Attachment HH. Based on the pile test report for an area, if the length or number of Piles in such area is different than that stated in this Section 2.5B.2(i) and Section 1 of Attachment HH, then a Change Order shall be

executed adjusting the Contract Price and Train 2 Project Schedule as follows:

(a) If the Pile test report in an area shows that a change in length, size, type or number of Piles is necessary to achieve the load bearing capacity noted in Section 1 of Attachment HH, the Contract Price shall be respectively increased or decreased by Change Order as provided in Section 3 of Attachment HH. This adjustment process shall be performed on an area-by-area basis as further set forth in Attachment HH;

(b) After conducting all of the Pile tests for the Site, if the total number of Piles for the Train 2 Expansion is either (i) ten percent (10%) or more greater than 20,192 Piles or (ii) ten percent (10%) or more less than 20,192 Piles, as a result of the cumulative findings of the Pile test reports described in clause (a) above, the Train 2 Project Schedule shall be evaluated and extended if and to the extent permitted under Section 6.9 (in the case of clause (i)) or decreased (in the case of clause (ii)); and

(c) Except as provided in clauses (a) and (b) above, Contractor is not entitled to any other adjustments to the Contract Price, Train 2 Project Schedule or any other Changed Criteria arising out of or relating to the Piles.

(ii) *Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.*

(a) *Identified Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* Prior to the Effective Date, Contractor received from Owner or developed under the FEED Agreement documentation showing the location of any subsurface utilities, subsurface obstructions, caverns, seismic faults and subsurface archeological finds, as described in more detail in Attachment BB. After the Effective Date but prior to performance of construction of any Work near any such identified subsurface utilities, obstructions, caverns, seismic faults or archeological finds, Contractor shall, exercising GECP, verify all locations of such identified subsurface utilities, obstructions, caverns, seismic faults and archeological finds, and Contractor shall be entitled to a Change Order adjusting the Contract Price and the Train 2 Project Schedule for any locations of Unforeseen Subsurface Conditions that are materially different than the information described in such documents and adversely affect Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, *provided that*, Contractor complies

with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9. After the commencement of construction, Contractor waives all risks and waives any right to claim an adjustment in the Contract Price or Train 2 Project Schedule with respect to any additional costs or delay incurred by Contractor or any Subcontractor or Sub-subcontractor during the construction of the Train 2 Expansion in connection with any location of any subsurface utility, obstruction or archeological find inaccurately shown on such documents.

(b) *Unknown Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* If Contractor encounters an Unforeseen Subsurface Condition that adversely affects Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, Contractor shall be entitled to a Change Order adjusting the Contract Price and Train 2 Project Schedule, *provided that* Contractor complies with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses all reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9.

3. In accordance with this Agreement, Contractor is required to raise and/or stabilize the Site in accordance with Schedule A-1 using appropriate and adequate materials meeting the requirements of this Agreement and GECP. The Contract Price is based on the fill requirements specified in Section 1 of Attachment II. No later than forty-five (45) Days after completion of soil stabilization and Site raising by Contractor, Contractor shall notify Owner in writing whether any adjustment to the fill material requirements specified in Section 1 of Attachment II are necessary based upon the process set forth in Attachment II and the actual amount of fill materials and soil stabilization materials utilized to raise and stabilize the Site. Such notification shall include a proposed Change Order and all information supporting such proposed Change Order, including the soil test reports of the stabilized soil and as-built cut and fill drawings for the Site. Any adjustments in the Contract Price shall be determined in accordance with Section 2 of Attachment II. Except for any adjustment in the Contract Price as provided in Attachment II, Contractor is not entitled to any other adjustments to the Contract Price, Train 2 Project Schedule or any other Changed Criteria arising out of or relating to any fill requirements or soil stabilization requirements for the Train 2 Project.

C. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards and represents that it can perform the Work at the Contract Price and within the Train 2 Project Schedule in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, (i) Contractor shall be entitled to a Change Order for Changes in Law (including Applicable Codes and Standards incorporated into Applicable Law) to the extent allowed under Section 6.2A.8, and (ii) the Parties shall follow the procedure in Section 2.5C.1 with respect to changes that occur after the Effective Date in Applicable Codes and Standards that are not incorporated into Applicable Law. Except for any Changes in Law for which Contractor is entitled to a Change Order under Section 6.2A.8, Contractor hereby waives any right to make any claim for adjustment of the Contract Price or the Train 2 Project Schedule in relation to any Changes in Law or change to any Applicable Codes and Standards.

1. If a change occurs in any Applicable Code and Standard after the Effective Date and such Applicable Code and Standard is not incorporated into any Applicable Law, Contractor shall give Owner written notice of such change in accordance with the requirements of Section 6.6, which such notice shall include a reasonably detailed description of the impact of the change (if any) on the Train 2 Project or any Changed Criteria. Within ten (10) Days after Owner's receipt of such notice, the Parties shall meet to discuss the implications (if any) of such change in Applicable Code and Standard and shall agree upon an appropriate course of action.

ARTICLE 3
CONTRACTOR'S RESPONSIBILITIES

3.1 **Scope of Work**.

A. ***Generally***. Subject to Section 3.1B, the Work shall be performed on a turnkey basis and shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 2 Expansion, all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, workmanship, inspection, manufacture, fabrication, installation, design, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 2 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees. Contractor shall be required to integrate and use Owner's operations and maintenance personnel (which are provided by Owner pursuant to Section 4.4) in Contractor's pre-commissioning, commissioning, testing and start-up efforts. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement,

with the explicit understanding that the Expansion Facility will operate as an LNG liquefaction, storage and export terminal facility meeting all requirements and specifications of this Agreement, and that the Existing Facility will continue to operate as an LNG receiving, storage and regasification facility. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required and necessary to complete the Train 2 Expansion in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

B. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits that Owner has agreed to provide under Section 4.2; (ii) those requirements set forth under Sections 4.3, 4.4, 4.5 and 4.8; (iii) legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point pursuant to Section 4.7; and (iv) LNG Tankers for start-up, commissioning and Performance Tests in accordance with Sections 11.1B and 11.1C.

3.2 **Specific Obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

A. procure, supply, transport, handle, properly store, assemble, erect and install all Equipment;

B. provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

C. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4;

D. perform shop and other inspections of the work of Subcontractors and Sub-subcontractors to ensure that such work meets all of the requirements of this Agreement;

E. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

F. pay all Contractor's Taxes incurred in connection with the Work in a timely fashion;

G. ensure that the Work is performed in accordance with the Train 2 Project Schedule;

H. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Train 2 Expansion, while supervising operations and maintenance personnel provided by Owner;

I. obtain all Permits required per Section 3.12;

J. provide reasonable, prompt assistance, information and documentation required or requested by Owner to enable Owner to obtain or modify the Permits listed in Attachment Q;

K. provide training and certification for Owner's operating and maintenance personnel per Section 3.5;

L. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

M. cooperate with and respond promptly to inquiries from Owner;

N. provide information and any other assistance reasonably requested by Owner with respect to Owner's contracting and interfacing with CenterPoint, including providing, on a timely basis, all information needed by CenterPoint regarding electrical demands of the Expansion Facility and specifying to CenterPoint all requirements of Contractor as well as review of any information provided by CenterPoint (including interface conditions) and attendance at meetings between Owner and CenterPoint;

O. be responsible for connecting the Train 2 Expansion (including designing, engineering and constructing the interconnections) to the permanent utilities to the extent set forth in Attachment A;

P. interface and cooperate with Owner's other contractors (which activities shall be coordinated by Owner), and provide necessary Drawings, Specifications and other information for interconnections to the Train 2 Expansion, including interconnections for the natural gas feed pipeline for the natural gas pretreatment facility, the natural gas liquids pipeline and the natural gas vapor return pipeline;

Q. supply all initial permanent (*i.e.*, non-startup) fills; and

R. perform, or cause to be performed, all design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 **Design and Engineering Work**.

A. ***General***. Contractor shall, as part of the Work, perform, or cause to be performed, all design and engineering Work in accordance with this Agreement and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees.

B. ***Drawings and Specifications***. Upon receipt of a limited notice to proceed ("***Limited Notice to Proceed***" or "***LNTP***") or the full notice to proceed ("***Notice to Proceed***" or "***NTP***") issued in accordance with Section 5.2, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall conform and comply with the requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

C. ***Review Process***.

1. *Over-the-Shoulder Review*. During the development of the Drawings and Specifications, Contractor shall provide Owner with the opportunity to perform "over-the-shoulder" reviews of the design and engineering in progress. Such reviews may be conducted at Contractor's office located in Houston, Texas, at any of its Subcontractor's or Sub-subcontractor's offices, or remotely by electronic internet access. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents determined by Owner.

2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment B.

3. *Review Periods*. Owner shall have up to ten (10) Business Days from its receipt of Drawings and Specifications submitted in accordance with Section 3.3C.2 to issue written comments, proposed changes and/or written approvals or disapprovals of the submission of such Drawings and Specifications to Contractor.

4. *No Owner Response*. If Owner does not issue any comments, proposed changes or written approvals or disapprovals within such time periods, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

5. *Disapproval by Owner*. In the event that Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in this Section 3.3C; *provided that* Contractor shall not be entitled to any extensions of time to the Train 2 Project Schedule, an adjustment to the Contract Price or any adjustment to any other Changed Criteria; *provided further, however*, to the extent Owner's disapproval of the Drawings or

Specifications is due to one or more material changes by Owner to any such Drawings or Specifications, and not the result of such Drawings or Specifications non-compliance with the requirements of this Agreement, Contractor shall be entitled to a Change Order to the extent such Owner-required change adversely affects the Train 2 Project Schedule and/or the Contract Price and Contractor complies with and meets the requirements under Article 6.

6. *Approval or Non-Response by Owner*. Upon Owner's written approval of the Drawings and Specifications, or in the event that Owner does not issue any comments, proposed changes or written approval or disapprovals of such Drawings and Specifications pursuant to Section 3.3C.4, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work; *provided that* Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control. Due to the limited time for Owner's review of Drawings and Specifications, Contractor's or its Subcontractors' or Sub-subcontractors' expertise in the Work and Owner's reliance on Contractor to prepare accurate and complete Drawings and Specifications, Contractor recognizes and agrees that Owner is not required or expected to make detailed reviews of Drawings and Specifications, but instead Owner's review of Drawings and Specifications may be of only a general, cursory nature. Accordingly, any review or approval given by Owner under this Agreement, or any non-response under Section 3.3C.4, with respect to any Drawings or Specifications shall not in any way be, or deemed to be, an approval of any Work, Drawings or Specifications not meeting the requirements of this Agreement, as Contractor has the sole responsibility for performing the Work in accordance with this Agreement.

D. ***Design Licenses***. Contractor shall perform, or cause to be performed, all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

E. ***CAD Drawings***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings and Specifications prepared by Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable AutoCAD.dwg (Version 10) or Intergraph 3D model in native format. Contractor shall use best efforts to also provide Drawings, including Record As-Built Drawings and Specifications, in other formats requested by Owner.

F. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep a redlined, marked, up-to-date set of As-Built Drawings and Specifications on the Site as required under Attachment B. Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment B, which shall include delivery of final as-built drawing files in fully operable and editable AutoCAD.dwg (Version 10) format or other format as agreed by Owner for Record As-Built Drawings (the "***Record As-Built Delivery Requirement***"). The Record As-Built Delivery Requirement shall include Record As-Built Drawings and Specifications for the entire Train 2 Expansion (including all Common Systems and Existing Facility Modifications). The Record As-Built Delivery Requirement shall be achieved by Contractor no later than ninety (90) Days after Substantial Completion of the Train 2 Expansion (the "***Guaranteed Record As-Built Delivery Date***").

G. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment B within and in accordance with the requirements and timing set forth in Attachment B.

3.4 **Spare Parts**.

A. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Train 2 Expansion to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving RLFC for the Train 2 Expansion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Contract Price, including the cost to procure such spare parts and the actual purchase price of such spare parts.

B. ***Capital Spare Parts***. The cost associated with all Work related to procuring the Capital Spare Parts identified in Attachment W (including the purchase price for such Capital Spare Parts) is included within the Contract Price. The Capital Spare Parts shall be delivered to the Site as a condition of Substantial Completion. For purposes of clarity, Capital Spare Parts may be utilized by Contractor prior to achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use.

C. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion (but only to the extent not taken into consideration by the Capital Spare Parts listed in Attachment W), Contractor shall deliver to Owner for Owner's written approval a detailed list of the manufacturer and Contractor-recommended spare parts for each applicable item of Equipment necessary for operating such Equipment (including components and systems of such Equipment) for two (2) years. Such list shall be provided to Owner for each item of Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract or Sub-subcontract for such Equipment. Owner shall have ten (10) Business Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract or Sub-subcontract. The cost associated with all Work related to the two (2) years' operating

spare parts is included in the Contract Price, except for the actual purchase price and delivery costs of such spare parts. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2A.6 to increase the Contract Price for the actual purchase price and delivery costs of such requested operating spare parts. For purposes of clarity, operating spare parts may be utilized by Contractor after achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use (including replacement of the used operating spare part at Contractor's expense).

3.5 **Training Program in General**. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion (but not to exceed the number of Persons listed in Attachment V) shall be given training designed and administered by Contractor at its expense, which shall be based on the program requirements contained in Attachment V and shall cover the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter reasonably required by Owner. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Expansion Facility during commissioning, testing and start-up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's or Sub-subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment V. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate training of Owner personnel hired in the future. Owner agrees that within forty-eight (48) hours after receipt of written notice from Contractor, it shall remove any employee or agent of Owner in the training program who, in Contractor's reasonable opinion, is unsafe, incompetent, careless, incapable of being trained, creates an unsafe or hostile work environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL HAVE NO LIABILITY AND OWNER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM OWNER TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY CONTRACTOR TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Owner shall replace any such employee at its sole cost and expense.

3.6 **Environmental Regulations and Environmental Compliance**. Without limitation of Section 3.1, Contractor is responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment and Applicable Law and in compliance with the policies and procedures set forth

in Attachment J. Contractor shall, at its sole cost and expense, dispose of all non-hazardous wastes and Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site (including any laydown areas), or generate from Hazardous Materials brought onto the Site during performance of the Work, which shall be disposed at off-Site disposal facilities approved by Owner and permitted to receive such wastes and Hazardous Materials. Contractor shall report to Owner, as soon as reasonably possible after having knowledge thereof and in no event later than one (1) Day after such occurrence, any violation of the foregoing. In addition to Section 17.1C, Contractor shall, at its sole cost and expense, remediate the release of any Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site, or generate from Hazardous Materials brought onto the Site, in violation of this Section 3.6.

3.7 **Contractor's Tools and Equipment**. Contractor shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such tools, machinery, structures, scaffolding or equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against Owner, Lender and any Owner Affiliates.

3.8 **Employment of Personnel**.

A. Contractor shall not employ, and shall require that any Subcontractor or Sub-subcontractor not employ, in connection with its performance under this Agreement anyone not skilled or qualified to perform the work assigned to such Person. Contractor agrees to promptly remove or reassign (or to require any Subcontractor or Sub-subcontractor to remove or reassign) from its services in connection with the Work any Person performing Work at the Site who does not meet the foregoing requirements. In addition, Contractor agrees that within forty-eight (48) hours after receipt of written notice from Owner, it shall remove from the Work any employee or agent of Contractor or of Contractor's Subcontractors or Sub-subcontractors who, in Owner's reasonable opinion, is unsafe, incompetent, careless, creates an unsafe or hostile work environment, persists in any conduct which is prejudicial to safety, health or the protection of the environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS

FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Contractor shall replace any such employee at its sole cost and expense.

B. Contractor is responsible for maintaining labor relations in such manner that there is harmony among the employees of Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site. Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site shall conduct their labor relations in accordance with the recognized prevailing local area practices. Contractor shall inform Owner 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. Contractor further agrees to inform Owner, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations. In the event of any labor dispute which threatens to adversely affect the progress of the Work, Owner reserves the right to restrict additional hiring of workers and to suspend or terminate the Work as set forth in Sections 16.3 and 16.2, respectively.

C. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature (unless prohibited by Applicable Law), knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of Owner is determined to be a potential weapon; (ii) alcoholic beverages of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) any animal; (v) illegal or Owner-prohibited drugs of any nature; (vi) any drugs (whether prescription or non-prescription) which impair physical or mental faculties; or (vii) any prescription drugs without a valid prescription.

In connection with the enforcement of this Section 3.8C, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contactor shall provide Owner with copies of such drug screening tests (subject to any restrictions imposed by Applicable Law). For Contractor, Subcontractor, and Sub-subcontractor employees and agents working in D.O.T-regulated functions, the drug screening policies for such employees and agents shall meet the D.O.T. approved drug and alcohol program requirements. Further, for Contractor, Subcontractor and Sub-subcontractor employees and agents performing "covered functions" (as defined by 49 CFR Part 199), the drug screening policies for such employees and agents shall be compliant with 49 CFR Part 199. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8C, and shall promptly remove from the Work any employee or agent of Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8C. The provisions of Section 3.8A with regard to liability of any of the Owner Indemnified Parties and Contractor's release, indemnification, defense and hold harmless obligations shall apply to the removal of any such Person under this Section 3.8C.

3.9 **Clean-up**. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its

Subcontractors or Sub-subcontractors. Without limitation of the foregoing or limiting Contractor's obligations, Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice. As soon as practicable after the completion of all Punchlist items, Contractor shall remove, at its own cost, all of its equipment, materials and other items not constituting (or intended to constitute) part of the Facility and remove all waste material and rubbish from the Site and restore the Site in accordance with all Permits and this Agreement. In the event of Contractor's failure to comply with any of the foregoing, Owner, having given Contractor five (5) Days prior notice, may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole option) all documented, direct costs associated with such removal and/or restoration, including costs associated with permitting, transportation and disposal at an authorized location.

3.10 **Safety and Security**. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval thirty (30) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Train 2 Expansion, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner after Work has commenced at the Site. Contractor further agrees to provide or cause to be provided necessary training and safety equipment to its employees, Subcontractors and Sub-subcontractors to ensure their compliance with the foregoing safety and health rules and standards and enforce the use of such training and equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law or by Owner and shall furnish Owner a Monthly summary of hours worked, injuries and labor hours lost due to injuries. Should Owner at any time observe Contractor, or any of its Subcontractors or Sub-subcontractors, performing the Work in an unsafe manner, or in a manner that may, if continued, become unsafe, then Owner shall have the right (but not the obligation) to require Contractor to stop the Work until such time as the manner of performing the Work has been rendered safe to the satisfaction of Owner; *provided, however*, that at no time shall Contractor be entitled to an adjustment of the Contract Price or Train 2 Project Schedule based on such work stoppage. Contractor shall be responsible for the security, fencing, guarding and lighting of the Train 2 Expansion and the Train 2 Expansion Site (except for those portions of the Train 2 Expansion Site falling within the security perimeter of the Existing Facility or the security perimeter of the Train 1 Expansion upon FLIQ1 (itself or through an Affiliate) taking over and maintaining site security for the Train 1 Expansion pursuant to Section 3.10 of the Train 1 EPC Agreement) until the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 2 Expansion. Upon the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 2 Expansion, the Train 2 Expansion

Site shall be incorporated into the security perimeter of the Existing Facility and Train 1 Expansion maintained by Owner (itself or through its Affiliates) and thereafter access to, and Work therein, will be subject to Owner's (or its Affiliates') site security requirements and other obligations under this Agreement with respect to performing Work in the Existing Facility Site and Train 1 Expansion Site as further set forth in Attachment V and Section 3.10B below; *provided that*, Contractor shall be able to continue to utilize its permit-to-work system and safety requirements meeting the requirements of this Agreement until Substantial Completion of the Train 2 Expansion. Nothing in this Section 3.10 shall affect Contractor's status as an independent contractor.

A. All Work performed hereunder shall comply with the minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of facilities contained in Title 49, Code of Federal Regulations (C.F.R.), Parts 192 (to the extent applicable) and 193 and in Title 33, C.F.R. Part 127. Contractor shall comply with requirements of the Operator Qualification Program that are outlined in Sub-Part H of 49 C.F.R. Part 193 and Sub-Part G of C.F.R. Part 195, where applicable. The term "pipeline facilities" shall include new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas, including LNG, or treatment of gas during the course of transportation. The term "transportation of gas" shall include the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

B. Any Work performed on the Existing Facility Site or the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) shall be conducted in accordance with the safety and security rules and procedures for the Existing Facility Site's and the Train 1 Expansion Site, as applicable. Each Contractor, Subcontractor or Sub-subcontractor personnel or representative needing access to the Existing Facility Site and the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) shall also have valid Transportation Worker Identification Credentials (TWIC card). In addition, each such personnel or representative shall have a valid TWIC card when, and to the extent, all or portions of the Train 2 Expansion Site become regulated by the Transportation Security Administration, which, in any event, shall be no later than when such portion of the Train 2 Expansion Site is incorporated into the security perimeter of the Existing Facility Site and the Train 1 Expansion Site pursuant to Section 3.10. Contractor acknowledges that it has fully investigated the access requirements and procedures for the Existing Facility Site and the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), as well as its site safety and security rules and procedures, and has taken such requirements, rules and procedures into account in planning the Work to be performed in accordance with the Train 2 Project Schedule. As such, Contractor shall not be entitled to a Change Order to adjust the Contract Price or Train 2 Project Schedule as a result of its personnel's (or that of its Subcontractors or Sub-subcontractors) compliance with such access, safety and security requirements, rules and procedures.

3.11 **Emergencies**. In the event of any emergency endangering life or property in any way relating to the Work, the Facility or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be under no obligation to, take reasonable action as required to address such emergency. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability. Contractor shall reimburse Owner for the performance of any work or furnishing of any equipment or other items in connection with any emergency in an amount equal to the reasonable costs incurred by Owner in such performance of work or furnishing of equipment or other items.

3.12 **Approvals, Certificates, Permits and Licenses**. Contractor shall obtain the Permits listed in Attachment P as well as (i) those Permits for the Train 2 Project that are required to be maintained in Contractor's (or its Subcontractor's or Sub-subcontractor's) name and (ii) non-project specific Permits necessary for Contractor to do business as a contractor in the State of Texas performing work of the nature contemplated herein. If requested by Owner, Contractor shall provide to Owner within five (5) Days after such request copies of all applications made for any such Permits and all material correspondence received or sent in respect of such applications. Contractor shall provide Owner with copies of such Permits as soon as they are obtained. Contractor shall provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained by Owner in Attachment Q.

3.13 **Books, Records and Audits**.

A. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with generally accepted accounting principles applicable in the United States 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. To the extent practicable, Contractor shall maintain such Books and Records in a manner that would allow them to be segregated into Books and Records relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work; *provided that*, notwithstanding the foregoing, Books and Records relating to all Work performed under any Change Order shall be segregated by Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

B. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records with respect to (i) any Drawings, Specifications or other technical documents required under this Agreement to be prepared, delivered or maintained by Contractor or any of its Subcontractors; (ii) any documents relating to safety, security, quality or Permits relating to this Agreement; (iii) any amounts billed

under unilateral Change Orders, or under cost reimbursable or unit price Change Orders; and (iv) any Provisional Sum Scope Items and any Provisional Sum amounts as well as the amounts making up the Fixed Sum Prices and the scopes of Work related thereto; *provided*, *however*, that such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with the internal composition of any compensation that is fixed in amount hereunder (including the composition of any markups, unit rates or fixed percentages or multipliers specified in this Agreement). When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records during normal business hours, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Contractor shall bear, at its own cost and expense, all costs incurred by it in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions substantially similar to this Section 3.13 in all Major Subcontracts. The restrictions in this Section 3.13B to the audit rights of Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law, in discovery in any arbitration or litigation arising out of Article 18 or in any litigation or arbitration against Guarantor.

C. Contractor shall not, and shall provide that its Subcontractors, Sub-subcontractors and agents or employees of any of them shall not, without Owner's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee, officer or consultant of Owner or its Affiliates, (ii) favor employees, officers or consultants of same with gifts or entertainment of any significant cost or value, or (iii) enter into any business arrangements with employees, officers or consultants of same.

3.14 **Tax Accounting**. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and Contractor's prices to Owner for any Equipment installed on or ordered for the Train 2 Expansion and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of Owner's tax returns or other tax documentation or the determination of Equipment that constitutes Tax Exempt Equipment listed in Attachment FF.

A. Contractor acknowledges that Owner is pursuing ad valorem tax abatements through the Texas Commission on Environmental Quality, and upon request Contractor shall provide documentation required or requested by the Texas Commission on Environmental Quality in order for Owner to perfect such abatement related to the cost of Equipment, including Equipment cost, cost of fabrication and design specifications, installation labor costs and overhead and other indirect costs. Documentation may consist of asset name or equipment reference number, a description of the asset, invoice copies showing Subcontractor name, invoice number, delivery date, and purchase amount. If reasonably requested by Owner, Contractor agrees to offer similar assistance to Owner toward any other federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF.

B. In the event that Contractor fails to provide the documentation described in Sections 3.14 and 3.14A, Contractor will be responsible to Owner for any resulting reduction in the tax benefit amount that Owner would otherwise be entitled to receive under the relevant federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF. Contractor shall be liable for and shall pay to Owner the amount of such reduction to the extent Owner was otherwise ready and capable of fulfilling all of Owner's compliance obligations and requirements with the applicable taxing entity in a timely fashion.

3.15 **Temporary Utilities, Roads, Facilities and Storage**. Contractor shall provide and pay for all utilities (*e.g.*, electricity (except as provided by Owner pursuant to Section 4.8B), water, communication, cable, telephone, waste and sewer), including all connections and substations, necessary for the performance of the Work, including installation, Permit and usage costs. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. Contractor shall provide Owner with office space in accordance with the requirements set forth in Attachment A at the time of Contractor's mobilization at the Site to accommodate Owner's Site representatives and support staff. Contractor shall provide Owner with all office space (as required by Attachment A), construction trailers, utilities, security, telephones, furnishings, and other temporary facilities required for their oversight of the Work, as set forth in more detail in Attachment A. All Equipment and other items comprising part of the Work stored at a location other than on the Site shall be segregated from other goods, and shall be clearly marked as "Property of FLIQ Common Facilities, LLC."

3.16 **Subordination of Liens**. In consideration of ten and no/100 U.S. Dollars (U.S.$10) incorporated into the Contract Price and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor, Contractor hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender or any lender of Owner's Affiliates, whether such lien in favor of such Persons is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender or any lender of Owner's Affiliates, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner's property and the Site are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 **Hazardous Materials**. Contractor shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Contractor may bring onto the Expansion Facility Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and the requirements specified in Attachment J, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials; *provided further, however*, if Contractor needs to bring any Hazardous Materials onto the Existing Facility Site or the Train 1 Expansion Site (after

Owner, through itself or its Affiliate, takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) for the performance of the Work, Contractor shall receive Owner's prior written approval (such approval not to be unreasonably withheld) before bringing such Hazardous Materials onto the Existing Facility Site or the Train 1 Expansion facility Site, as applicable, and Contractor shall comply with Applicable Law, Applicable Codes and Standards, the requirements specified in Attachment J, and any safety or security rules or procedures for the Existing Facility Site or the Train 1 Expansion Facility regarding such Hazardous Materials, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials. If Contractor or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Site, and Contractor or any Subcontractor or Sub-subcontractor knows or reasonably suspects that such material is Hazardous Material, Contractor and its Subcontractors and Sub-subcontractors shall immediately stop Work in the affected area and notify Owner. If under such circumstances Contractor or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify Owner, Contractor shall be responsible and liable to Owner in accordance with Section 17.1C for all damages, costs, losses and expenses to the extent relating to such failure.

3.18 **Quality Assurance**.

A. No later than sixty (60) Days after the date Owner issues NTP, Contractor shall submit to Owner for its review and written approval, an Expansion Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's Quality Management System and Subcontractor source inspection plan as required by Attachment EE. No later than ninety (90) Days after the date Owner issues NTP, Contractor shall submit to Owner for its written approval, detailed construction inspection and test plans and supporting construction procedures as required by Attachment EE. Prior to the commencement of the Work, detailed quality assurance and quality control procedures and plans applicable to the Work shall be issued to Owner in accordance with Attachment EE. Owner's review and approval of Contractor's quality plan, Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this Agreement. As part of the quality plan, the Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans, Contractor agrees that it shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including the Lender independent engineer's) review a copy of all such inspections.

B. Before proceeding with the Work, Contractor shall furnish satisfactory evidence as to the kind, quality, and quantity of all Equipment. Without prior written approval by Owner which specifically waives the requirements of this Agreement, Contractor shall not use any Equipment other than as specified in this Agreement. If Contractor wishes to modify the requirements contained herein, then it shall make written application to Owner for Owner's approval, in Owner's sole discretion, prior to performing any such Work. Such application shall (i) identify the requirements being modified, (ii) certify that the quality of the proposed substitute is equal to or better than that currently specified, and (iii) certify that the substitute is suited to the same use and

capable of performing the same function as that specified. If the preceding requirements are not followed, then any substitution shall constitute a Contractor Default. All Equipment shall be fabricated, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions of the applicable Subcontractor or Sub-subcontractor.

3.19 **Reports and Meetings**.

A. ***Reports***. Contractor shall provide Owner with an electronic copy of progress reports and such other information as reasonably requested by Owner, including the following:

1. minutes for all status and other Train 2 Expansion-related meetings within five (5) Business Days following such meeting;

2. safety or environmental incident reports within three (3) Business Days after the occurrence of any such incident (including "near miss" incidents where no individual was injured or property was damaged) relating to the Work, except for any safety or environmental incident involving a significant non-scheduled event such as LNG or natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; *provided, however,* notification shall be provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work;

3. weekly (or such duration as otherwise agreed by Owner in writing) progress reports for the Work ("***Weekly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X, which shall be provided one (1) Day prior to the weekly progress meeting and shall cover all activities up to the end of the previous week; and

4. Monthly progress reports for the Work ("***Monthly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X. Contractor shall provide the Monthly Progress Report no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall arrange for the electronic distribution of the Monthly Progress Report as Owner may reasonably request.

The Parties acknowledge that the Weekly Progress Reports and Monthly Progress Reports provided in accordance with this Section 3.19A shall include information for both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be reported separately in accordance with Attachment X).

B. ***Meetings***.

1. A weekly progress meeting shall occur every week at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior week. The meetings shall be attended by the Owner Representative, the Contractor Representative, the Owner planning and scheduling representative, the Contractor planning and scheduling representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

2. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior Month and to review the Monthly Progress Report for that Month with Owner. The Monthly progress meeting shall be attended by the Owner Representative, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

3. The Parties acknowledge that the weekly and monthly progress meetings held in accordance with this Section 3.19B shall include information related to both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be discussed separately in accordance with Attachment X).

3.20 **Payment**. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.21 **Commercial Activities**. Neither Contractor 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 Site or any other lands owned or controlled by Owner; *provided, however*, lunch wagons and vending machines may be permitted upon prior written approval by Owner.

3.22 **Title to Materials Found**. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by Owner. Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 **Survey Control Points and Layout**. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to Section 4.7. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control points provided

by Owner, such control points shall be replaced by Contractor at Contractor's own expense and Contractor shall be liable to Owner for all other damages, costs, losses and expenses arising out of such relocation or destruction.

3.24 **Cooperation with Others**.

A. Subject to the provisions of this Agreement, including Section 4.3, Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. As such, but subject to the provisions of this Agreement (including Section 4.3), Owner reserves the right to require Contractor 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, *provided that*, but subject to Sections 21.22 and 3.24B, if Owner's requirement to reschedule the Work interferes with Contractor's performance of the Work, Contractor shall be entitled to a Change Order to the extent allowed under Section 6.9.

B. Contractor understands that Owner may choose to expand the Expansion Facility (beyond the current Scope of Work and the Train 1 EPC Agreement) under one or more separate agreements, including adding additional natural gas pretreatment and liquefaction units. Such other agreements may or may not involve Contractor and may be performed during the course of the completion of the Work covered under this Agreement. In the event Contractor is not participating in such separate agreement(s), Contractor agrees to cooperate with Owner's other contractor(s) so as not to materially interfere with such other contractor, and Owner agrees to require its other contractor to cooperate with Contractor so as not to materially interfere with Contractor. In the event Contractor does participate in any or all such separate agreements, Contractor acknowledges that any such work performed by Contractor shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 2 Project Schedule or any other Changed Criteria.

3.25 **Scheduled and Unscheduled Activities Involving the Existing Facility and the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement**.

A. ***Scheduled Activities***. Listed in Attachment CC is the Work (i) that is being performed on the Existing Facility Site or the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement) or (ii) which may interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement) or the Existing Facility (including any Existing Facility Modifications which have been Handed Over pursuant to Section 11.2A). No later than fourteen (14) Days prior to performing such Work, Contractor shall provide Owner with a written plan listing the Work to be performed and proposing in detail how Contractor intends that such Work will be performed to minimize, to the greatest extent reasonably possible, interference with the operation of the Train 1 Expansion or the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A). The plan proposed by Contractor shall be the least disruptive to operations of the Train 1 Expansion or Existing Facility

(including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A), unless such plan is disproportionately expensive when compared to the impact on such operations. Prior to the execution of such Work, Owner and Contractor shall mutually agree upon a proposed plan for Contractor to execute such Work.

B. ***Unscheduled Activities***. It is the Parties' intent that, except for the activities listed in Attachment CC, the performance of the Work and Contractor's other obligations under this Agreement will not be performed on the Existing Facility Site or the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement) or interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement) or the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A). During the performance of the Work, should a situation arise that requires additional Work to be performed on the Existing Facility Site or the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement), or which Contractor reasonably believes has the potential of interfering with the operation of the Train 1 Expansion or the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A), Contractor shall, except in an emergency endangering property or any Persons, give Owner written notice as soon as possible but no later than seven (7) Days' prior to the time that Contractor plans to perform such Work, detailing a plan that meets the requirements of Section 3.25A. Emergency actions are governed by Section 3.11. Prior to performing such Work, Owner and Contractor shall mutually agree on a proposed plan for Contractor to execute such Work. Notwithstanding Owner's agreement to the schedule and the plan for the performance of such Work, Owner may, in its sole discretion, subsequently prohibit the performance of such Work on such scheduled date, and Contractor shall work with Owner to develop a new plan and date for performing such Work in accordance with this Section 3.25B, and in such case Contractor shall be entitled to a Change Order to the extent permitted under Section 6.2A.1.

3.26 **Responsibility for Property**. Contractor shall carry out the Work so as not to interfere unnecessarily or improperly with, or damage, any access to, use or occupation of, public or private roads and footpaths or properties whether in the possession of Owner or of any other Person. Contractor shall liaise with, and ascertain the requirements of, all Governmental Instrumentalities in relation to vehicular access to and egress from the Site and shall comply with those requirements. Contractor shall so organize the Work as to minimize, and if required by any Governmental Instrumentalities having jurisdiction over such roads or footpaths, avoid vehicular travel during peak travel time on public roads, such as (but not limited to) school start and finish times. Contractor shall prevent damage to any highway or bridge by any traffic of Contractor or any Subcontractor or Sub-subcontractor and in particular, but without limitation, shall select routes, obtain all permits and permissions from relevant Governmental Instrumentalities, choose and use vehicles, and restrict and distribute loads so that any traffic interference which may arise from the moving of equipment and materials to and from the Site shall be limited as far as reasonably possible and so that no damage will be caused to highways and bridges. Contractor shall be deemed to have satisfied itself as to and shall be fully responsible for the routing for delivery of heavy or large loads to the Site or other locations where Work is performed. Contractor shall be fully responsible for all damages, losses, costs and expenses arising out of damage to such

third-party property and shall promptly restore at its own cost and expense such property to the condition it was in before such damage. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site. Where the nature of the Work is such as to require the use by Contractor of waterborne transport, Contractor shall avoid, or minimize to the extent possible, any interference by Contractor with the access by and use of the common harbor, waterways and jetty by other Persons.

3.27 **Explosives**. Explosives shall be transported to the Expansion Facility Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives. Residual surplus explosives shall be promptly removed from the Expansion Facility Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.28 **Nondiscrimination**. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, national origin, religion, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.28.

3.29 **Used or Salvaged Materials**. If, after Substantial Completion and prior to Final Completion, Contractor has any Equipment (including commissioning spare parts) that it intended for use with the Train 2 Expansion but did not incorporate therein, Owner has the option of either taking such Equipment at no cost to Owner or require that Contractor haul off such Equipment at Contractor's own cost and expense. Notwithstanding the foregoing, all Capital Spare Parts and operating spare parts itemized on the Owner-approved spare parts list prepared pursuant to Section 3.4 shall be the property of FLIQ CF and shall only be utilized by Contractor upon Owner's prior written agreement in accordance with such Section 3.4.

3.30 **Supervision of Owner's Operation Personnel**. Until Substantial Completion (but subject to Owner rights under Section 11.8), Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Train 2 Expansion shall be under the control of and supervised by Contractor; *provided, however*, Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Common Systems that achieved substantial completion pursuant to the Train 1 EPC Agreement shall be under the control of, and supervised by, Owner (or its Affiliate); *provided further, however*, notwithstanding the foregoing, all such operating and maintenance personnel shall remain employees or agents of Owner (or its Affiliates) and shall not be considered employees of Contractor for any reason. To the extent not set forth in Attachment V, Contractor shall, no later than two hundred seventy (270) Days prior to

the Guaranteed Substantial Completion Date, prepare for Owner's review a proposed plan regarding the utilization of Owner's (or its Affiliates') operation and maintenance personnel and Contractor's personnel during pre-commissioning, commissioning, start-up and operations of the Train 2 Expansion and the conduct of Performance Tests and any other tests for the Train 2 Expansion. Each such plan shall be prepared so as to minimize, to the extent reasonably possible under the circumstances (considering the need to keep the Existing Facility, and the Train 1 Expansion after substantial completion under the Train 1 EPC Agreement, operable), any impact on the operation of the Existing Facility and the Train 1 Expansion and to take into account the Existing Facility and the Train 1 Expansion operating and maintenance procedures, the number of operating and maintenance personnel available to Owner for participation in pre-commissioning, commissioning, start-up and Performance Testing, safety issues for the Train 2 Expansion and the type of activities to be performed. Such plan shall be mutually agreed-upon by the Parties no later than forty-five (45) Days after Owner's receipt of Contractor's proposed plan. Without in any way limiting Contractor's obligation to provide forces and labor during commissioning and Performance Testing, Contractor agrees that if any activity requires direct supervision by Contractor, such activity shall be performed by Contractor or a Subcontractor or Sub-subcontractor. Nothing in this Agreement, including this Section 3.30 or Section 3.2H, shall be interpreted to create a master-servant or principal-agent relationship between Contractor and any of Owner's (or Owner's Affiliates') operation or maintenance personnel.

3.31 **Use of Owner Equipment or Facilities**. Where Contractor requests from Owner and Owner agrees in writing to make available to Contractor certain construction equipment (*e.g.*, cranes, mules, tools, etc.) belonging to Owner for the performance of the Work, the following shall apply:

A. Owner-provided construction equipment shall be charged to Contractor at rental rates to be agreed between them;

B. Owner shall furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by Contractor during the rental period;

C. Contractor shall assure itself of the condition of such construction equipment and assume all risks and responsibilities during its use, it being understood by the Parties that any use of Owner's construction equipment is strictly on an "AS IS" basis and OWNER HEREBY DISCLAIMS, AND CONTRACTOR HEREBY WAIVES, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH CONSTRUCTION EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, CONDITION, OR FITNESS FOR ANY PARTICULAR PURPOSES OR USE;

D. To the fullest extent permitted by Applicable Law, Contractor shall, notwithstanding anything to the contrary in Article 17, release, defend, indemnify and hold harmless Owner Indemnified Parties from and against any and all claims, demands and liabilities directly or indirectly arising from the use of such construction equipment;

E. Owner and Contractor shall jointly inspect such Owner equipment or facilities before their use and upon their return. Any damage or destruction of such

construction equipment, other than normal wear and tear, shall be repaired or replaced at Contractor's expense; and

F. If such construction equipment is furnished with an operator, the services of such operator shall be performed under the complete direction and control of Contractor and such operator shall be considered Contractor's employee for all purposes other than the payment of wages, workers' compensation insurance and other employment benefits.

3.32 **Compliance with Real Property Interests**. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors performing Work at the Site to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work.

ARTICLE 4
OWNER'S RESPONSIBILITIES

Owner shall comply with the following provisions in a timely manner:

4.1 **Payment**. Owner shall timely pay the Contract Price in accordance with the provisions of Article 7 hereof.

4.2 **Permits**. Owner shall be responsible for obtaining the Permits listed in Attachment Q. To the extent Owner has not obtained any Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment Q and Owner shall provide Contractor with copies of such Permits within ten (10) Business Days after obtaining them. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 **Access to the Site**. Owner shall provide Contractor with reasonable access on the Train 2 Expansion Site. Subject to Section 3.24, such access shall be sufficient to permit Contractor to progress with Work (including as necessary to perform Work under an LNTP) on a continuous basis without substantial interruption or interference. In addition, Owner shall provide Contractor with reasonable access on the Existing Facility Site, and the Train 1 Expansion Site (after FLIQ1 (or its Affiliate) takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), necessary for the performance of the Work; *provided, however*, except as allowed pursuant to Section 3.25, such access shall not interfere with the operation of the Existing Facility or the Train 1 Expansion, nor shall it interfere with the performance of work by Owner's other contractors or subcontractors or other Persons. Contractor shall have the obligation to coordinate the performance of the Work with Owner and with any of Owner's other contractors or subcontractors as required in Sections 3.2P and 3.24.

4.4 **Operation Personnel**. Owner shall retain (through itself or an Affiliate) operating and maintenance personnel sufficient to pre-commission, commission, start-up and test the Train 2 Expansion under the supervision of Contractor during commissioning as set forth in Attachment V. Such personnel performing activities for the Train 2 Expansion shall be under the control of and supervised by Contractor in accordance with Section 3.30. For clarity, however, Owner (or its Affiliate) shall provide and pay for all of Owner's (or such Affiliate's) operating and maintenance personnel, including all wages, fringes, taxes and insurance.

4.5 **Texas Sales and Use Taxes**.

A. ***Sales and Use Taxes Exemption Certificates on Exempt Equipment***.

1. For Texas state and local sales and use tax purposes, this Agreement shall be considered to be a separated contract for the construction of new non-residential real property as defined under Applicable Law, including 34 Tex. Admin Code Rule § 3.291(a)(13). Contractor shall ensure that all Subcontracts are separated for Texas state and local sales and use tax purposes.

2. Listed in Attachment FF are those items of Equipment (including materials) to be permanently installed in the Train 2 Project in which Owner intends to claim a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes under Applicable Law, including the governing law specified in Section 21.9 ("***Tax Exempt Equipment***"), which such list may be adjusted by Owner at its sole discretion by Change Order. In addition, with respect to any additional items of Equipment added by Change Order which are subject to a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes, Owner will update the list of Tax Exempt Equipment in Attachment FF.

3. Prior to issuance of NTP or any LNTP directing Contractor to procure any Equipment, and to the extent not already included in Attachment GG, Owner shall issue a Texas direct pay exemption certificate and Texas Sales and Use Tax Exemption Certificate(s) to Contractor, and Contractor shall not invoice Owner for Texas state and applicable local sales and use tax on the separately stated Tax Exempt Equipment Price and separately stated Taxable Equipment Price. Pursuant to direct pay permit status, Owner shall pay Texas state and applicable local sales and use tax directly to the State of Texas and the applicable local Governmental Instrumentality on the Taxable Equipment Price. Contractor shall provide the documents and information necessary to allow the Owner to properly determine this tax liability. Contractor shall maintain for Owner's review copies of Texas state and applicable local sales and use tax exemption certificates and other similar documentation necessary to support all Texas state and applicable local sales and use tax exemptions that may be available to Owner, Contractor or any Subcontractor or Sub-subcontractor in connection with the Work.

4. Contractor shall reasonably cooperate with Owner to minimize any and all Texas state and applicable local sales and use taxes relating to the Train 2 Project. If Contractor or any Subcontractor or Sub-subcontractor incurs any Texas state and applicable local sales and use taxes on any items of Tax Exempt Equipment or Taxable Equipment listed in Attachment FF for which Owner provided Contractor with a valid applicable Texas state and applicable local sales and use tax exemption certificate or direct pay exemption certificate, Contractor shall be responsible for the payment of such Texas state

and applicable local sales and use taxes without reimbursement by Owner and CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY CLAIMS BY A GOVERNMENTAL INSTRUMENTALITY FOR SUCH TEXAS STATE AND APPLICABLE LOCAL SALES AND USE TAXES.

B. ***Additional Contractor Texas Sales and Use Tax Responsibilities***. Contractor shall be considered a retailer of all Equipment incorporated into the Work. Contractor shall issue a valid Texas sales and use tax resale exemption certificate for Taxable Equipment and Tax Exempt Equipment to its Subcontractors, and Contractor shall not pay, consistent with such exemption certificate, any sales and use tax on Taxable Equipment and Tax Exempt Equipment to Subcontractors. Notwithstanding the foregoing, Contractor shall remain responsible for the payment of all Taxes on account of the Work, including Texas state and applicable local sales and use taxes on any purchase, lease or rental of construction equipment and on any other purchases related to Work other than the Tax Exempt Equipment and Taxable Equipment.

4.6 **Hazardous Materials**. Owner shall remediate, remove, transport or dispose of any Hazardous Materials discovered or released at the Site (including Hazardous Materials used or generated by operation of the Existing Facility), including any Hazardous Materials brought on the Site by third parties, but excluding any Hazardous Materials that are the responsibility of Contractor pursuant to Section 3.17. Contractor shall provide reasonable assistance to Owner in its Hazardous Material remediation efforts. OWNER SHALL DEFEND, INDEMNIFY AND HOLD CONTRACTOR INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES) INCURRED BY CONTRACTOR CAUSED BY ANY HAZARDOUS MATERIALS FOR WHICH OWNER IS RESPONSIBLE UNDER THIS SECTION 4.6.

4.7 **Legal Description and Survey**. Owner shall provide to Contractor for Contractor's information a legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point.

4.8 **Owner Provided Items**. Owner shall provide those items listed in this Section 4.8 and in Attachment Z within the times listed therein, subject to the requirements and limitations set forth in this Section 4.8.

A. ***Natural Gas Feed to Achieve Substantial Completion***. As between Owner and Contractor under this Agreement, Owner shall procure and make natural gas feed available for commissioning, start-up, cool down and testing of the Train 2 Expansion (including natural gas or LNG utilized in the initial cool-down of the Train 2 Expansion). The natural gas feed to the Train 2 Expansion will meet the pressure, temperature and quality requirements set forth in Schedule A-2 in accordance with this Section 4.8A and the delivery requirements as set forth by Section 4.8A(i) below. Such natural gas feed shall be made available by (or on behalf of) Owner at the inlet of the natural gas pretreatment facilities to be constructed by Contractor as part of the Work. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all natural gas feed in order for Contractor to achieve Substantial Completion. Contractor

shall use GECP to minimize the amount of natural gas flaring or venting that is necessary to achieve Substantial Completion, and the start-up, commissioning and testing procedures agreed upon by the Parties shall be developed and administered in a manner to minimize natural gas flaring and venting. Further, Owner and Contractor will use reasonable efforts to allow for recirculation of natural gas and LNG between the Existing Facility and the Train 2 Expansion and between the Train 1 Expansion and the Train 2 Expansion after substantial completion of the Train 1 Expansion to aid Contractor in the start-up, cool down, commissioning and testing of the Train 2 Expansion to assist in minimizing the amount of natural gas flaring or venting necessary to achieve Substantial Completion.

(i) In order for Owner to schedule the procurement of natural gas feed to be provided by Owner in accordance with Section 4.8A, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing its first delivery of natural gas feed for the Train 2 Expansion. Within such written notice, Contractor shall provide Owner with a range of days and a range of flows for each Day which Contractor, using GECP, believes it will need for delivery of natural gas feed in order to achieve Substantial Completion. No later than the twentieth (20^{th}) day of the Month prior to the Month in which natural gas feed will first be delivered, Contractor will provide a second written notice to Owner with an updated forecast of the days and amounts of natural gas feed deliveries for such Day necessary to achieve Substantial Completion of the Train 2 Expansion, which such Days and amounts shall be within the ranges provided by Contractor in its initial notice. If Contractor provides the above notices in accordance with this Section 4.8A(i), Owner will procure such natural gas feed in accordance therewith, subject to the limitations set forth in Section 4.8A; if Owner fails to provide natural gas feed as required herein, and Contractor provided Owner with the notices required by this Section 4.8A(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the natural gas feed). Owner shall use reasonable efforts to procure natural gas feed deliveries in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure natural gas feed deliveries which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 2 Project Schedule or any other Changed Criteria.

B. ***Electrical Power Requirements to Achieve Substantial Completion***. Contractor shall procure and pay for all electricity necessary for the design, engineering, procurement and construction of the Train 2 Expansion until RFSU for the Train 2 Expansion. Thereafter, as between Owner and Contractor under this Agreement, Owner shall procure and make electricity available for the Train 2 Expansion meeting the requirements set forth in Schedule A-2 in accordance with this Section 4.8B for the commissioning, start-up and testing (including Performance Testing) of the Train 2 Expansion. Such electricity feed shall be made available by (or on behalf of) Owner at the interface between CenterPoint's high voltage transmission lines and the Facility's high voltage transmission lines. As between Owner and Contractor under this Agreement,

Owner shall procure, at its sole cost, all electricity necessary from RFSU for achievement of Substantial Completion of the Train 2 Expansion. Contractor shall use GECP to use electricity in the most efficient manner practicable between RFSU and Substantial Completion of the Train 2 Expansion and minimize the consumption of electricity that is not utilized in producing incremental volumes of LNG meeting the specifications of this Agreement. The start-up, commissioning and testing procedures to be agreed upon by the Parties shall be developed and administered in a manner to ensure efficient use of electricity. For purposes of clarity, after Substantial Completion of the Train 2 Expansion and as between Owner and Contractor under this Agreement, Owner shall provide and pay for all electricity consumed by the Train 2 Expansion (whether consumed in the production of incremental on-spec LNG or otherwise).

(i) In order for Owner to schedule the procurement of electricity to be provided by Owner in accordance with Section 4.8B, Contractor shall provide Owner with written notice at least ninety (90) Days prior to the scheduled date for achievement of RFSU of the Train 2 Expansion (as shown on the most recent Monthly Updated CPM Schedule). Within such written notice, Contractor shall provide Owner with a daily power load profile which Contractor, using GECP, anticipates for its electricity consumption between RFSU and Substantial Completion. At least forty-five (45) Days prior to the scheduled date for achievement of RFSU of the Train 2 Expansion (as shown on the most recent Monthly Updated CPM Schedule), Contractor shall provide Owner with a second written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the first forty-five (45) Day period after RFSU is achieved for the Train 2 Expansion. Every forty-five (45) Days thereafter, Contractor shall provide Owner with written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the next forty-five (45) Day period (or until Substantial Completion is achieved for the Train 2 Expansion). For purposes of clarity, and by way of example and explanation only, if Contractor's second written notice (provided 45 Days prior to the scheduled achievement of RFSU) was provided on March 1st (for a scheduled RFSU achievement on April 14th), such notice should provide an estimate for power usage from April 14th until May 28th. Then, on April 14th, Contractor shall provide Owner with written notice estimating the power usage from May 29th until July 12th. Contractor shall provide similar notices every 45 Days thereafter until it has estimated its power usage up to the scheduled date of Substantial Completion for the Train 2 Expansion. If Contractor provides the above notices in accordance with this Section 4.8B(i), Owner will procure electricity in accordance therewith; if Owner fails to provide electricity as required herein, and Contractor provided Owner with the notices required by this Section 4.8B(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the electricity). In the event Contractor's planned activities between RFSU and Substantial Completion deviate from those assumed for purposes of estimating the power loads necessary to be supplied by Owner (such that the estimated power loads necessary for Contractor's activities change significantly in either amount, timing, or both), Contractor shall, as soon as reasonably possible, provide Owner

with written notice of such deviations and provide new estimates for the power loads that have been previously estimated by Contractor.

C. ***Propane and Ethylene***. As between Owner and Contractor under this Agreement, Owner shall timely procure and pay for sufficient quantities of propane and ethylene (including any makeup propane and ethylene) for commissioning, startup and testing of the Train 2 Expansion. The propane and ethylene shall meet the specifications set forth in Attachment A. In order for Owner to schedule the supply of the quantities of propane and ethylene, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing delivery of the initial quantities of propane and ethylene for the Train 2 Expansion. Within such written notice, Contractor shall provide Owner with the quantities (itemized among the initial quantities and any makeup quantities) for both ethylene and propane which, using GECP, Contractor believes it will need in order to achieve Substantial Completion of the Train 2 Expansion. No later than ten (10) Days prior to Contractor's desired delivery date for the initial quantities of ethylene and propane, Contractor will provide a second written notice to Owner confirming or updating the quantities and delivery dates for the supply of ethylene and propane. If Contractor provides the above notices in accordance with this Section 4.8C, Owner will procure such ethylene and propane in accordance therewith; if Owner fails to provide propane or ethylene as required herein, and Contractor provided Owner with the notices required by this Section 4.8C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the propane or ethylene). Owner shall use reasonable efforts to procure ethylene and propane in amounts in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure supplies which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 2 Project Schedule or any other Changed Criteria.

D. ***LNG Evacuation Requirements***. Owner shall evacuate LNG produced by the Train 2 Expansion from the LNG storage tanks in amounts necessary for Contractor to achieve Substantial Completion of the Train 2 Project (subject to Section 11.4A). In addition (but subject to Section 11.4A), Owner shall ensure that adequate storage remains available (in accordance with this Section 4.8D) for Contractor to achieve Substantial Completion notwithstanding Train 1 Expansion operations and use of the LNG storage tanks. Owner shall evacuate LNG from the LNG storage tanks in accordance with the notice procedure set forth in Section 11.1C. If Owner fails to provide LNG evacuation at the times and in the amounts required by Section 11.1C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to evacuate LNG from the LNG storage tanks). In addition to the LNG storage capacity available from the Existing Facility LNG storage tanks prior to commissioning of the Train 2 Expansion, Owner shall evacuate a minimum of 1,250,000 cubic meters of LNG from the LNG storage tanks (to the extent such amount is necessary for Contractor to achieve Substantial Completion) for the commissioning, tuning and testing of the Train 2 Expansion ("***LNG Evacuation Requirement***"). If Contractor requires additional

amounts of LNG evacuated from the LNG storage tanks in order to achieve Substantial Completion, Owner shall evacuate such LNG in accordance with the requirements of Section 11.1C; *provided, however*, for each cubic meter of LNG evacuated by Owner above the LNG Evacuation Requirement, Contractor shall be liable to Owner for any actual, incremental costs to Owner (net costs after accounting for any revenues received by Owner as a result of such evacuation) not to exceed Twenty Four U.S. Dollars (U.S.$24.00) per cubic meter of LNG evacuated above the LNG Evacuation Requirement; *provided further, however*, that Contractor's aggregate liability to Owner for the foregoing incremental costs shall not exceed Twenty Million U.S. Dollars (U.S.$20,000,000) (and any such liabilities incurred by Contractor shall accrue against Contractor's aggregate liability under Section 20.1). While adhering to the LNG evacuation schedule required by Section 11.1C, Owner will use commercially reasonable efforts to avoid or minimize any net costs it incurs in providing LNG evacuation above the LNG Evacuation Requirement.

E. ***LNG Tanker Loading Requirements***. As between Owner and Contractor under this Agreement, Owner shall provide Contractor with LNG Tanker loading opportunities in order for Contractor to conduct the Ship Loading Performance Test for the Existing Facility LNG loading dock and the Expansion Facility Dock. For clarity, only one successful Ship Loading Performance Test, performed in accordance with Attachment S, is necessary for each of the LNG loading docks (*i.e.*, one successful test for the Existing Facility LNG loading dock to be modified as part of the Existing Facility Modifications and one successful test for the Expansion Facility Dock to be constructed as part of the Common Development Work). When performing the Ship Loading Performance Test for each LNG loading dock, Owner shall have, or cause to have, the LNG Tanker cold and ready to accept LNG transfer with no constraints on loading rates at or below the Ship Loading Rate MAC. Contractor shall have the right to determine which LNG Tanker loading opportunities provided by Owner will be utilized for the Ship Loading Performance Tests. Subject to Section 11.4A, Contractor will be provided with enough LNG Tanker loading opportunities for Contractor to successfully achieve the Ship Loading Performance Tests. Notwithstanding the foregoing, however, if (i) Contractor has been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Expansion Facility Dock, (ii) Contractor's only barrier to achieving Substantial Completion of the Train 2 Expansion is passing the Ship Loading Performance Test for the Expansion Facility Dock and (iii) Contractor is otherwise ready to perform such Ship Loading Performance Test, then Contractor's liability for Substantial Completion Delay Liquidated Damages shall not exceed thirty (30) Days of Substantial Completion Delay Liquidated Damages in the event Contractor is unable to conduct a Ship Loading Performance Test on the Expansion Facility Dock due to Owner's inability to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. If the foregoing circumstances arise, once Contractor is provided with its next LNG Tanker loading opportunity (after Contractor has been provided with the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test on the Expansion Facility Dock), if the Ship Loading Performance Test is unsuccessful, Contractor's liability for Substantial Completion Delay Liquidated Damages shall re-commence but shall not exceed thirty (30) Days of additional Substantial Completion

Delay Liquidated Damages if Owner is unable to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. Subject to Section 11.4A, the foregoing 30-Day limitation on Substantial Completion Delay Liquidated Damages and re-commencement of such Delay Liquidated Damages after an unsuccessful Ship Loading Performance Test shall continue until the Ship Loading Performance Test is achieved for the Expansion Facility Dock. To the extent necessary for successful achievement of the Ship Loading Performance Test, Owner will use commercially reasonable efforts to provide Contractor with additional LNG Tanker loading opportunities as soon as possible after the initial ten (10) loadings have been provided.

1. In the event that (i) Contractor has not been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Expansion Facility Dock, (ii) Contractor is ready to perform the Ship Loading Performance Test for the Expansion Facility Dock, and (iii) such Ship Loading Performance Test is Contractor's only barrier to achieving Substantial Completion for the Train 2 Expansion, Contractor (once the Guaranteed Substantial Completion Date has arrived or if it has passed) shall be entitled to an extension to the Train 2 Project Schedule and adjustment to the Contract Price to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing the delay in providing LNG Tanker loading opportunities to Contractor) until the earlier of (1) a successful Ship Loading Performance Test is achieved or (ii) Owner provides (or causes to be provided) the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test at the Expansion Facility Dock.

2. Notwithstanding anything to the contrary in Section 6.13 or elsewhere herein, Owner and Contractor agree and acknowledge that any rights to relief by Contractor arising out of or resulting from delays in providing Contractor with ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test for the Existing Facility LNG loading dock are set forth in the Train 1 EPC Agreement, and Contractor shall not be entitled to any adjustment to the Contract Price or modification of any other Changed Criteria under this Agreement as a result therefrom.

ARTICLE 5
COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS

5.1 **Commencement of Work**. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence with the performance of the Work specified in such LNTP or NTP.

5.2 **Limited Notice to Proceed/Notice to Proceed**.

A. ***Limited Notices to Proceed***.

1. On the Effective Date, Owner shall issue to Contractor LNTP No. 1 in the form of Schedule H-3 ("***LNTP No. 1***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 1, subject to the payment provisions and maximum payments set forth in LNTP No. 1. The intent of LNTP No. 1 is for Contractor to perform Work that was previously on-going under the FEED Agreement for the Train 2 Expansion after execution of this Agreement, and additional Work activities, all as set forth in LNTP No. 1. All Work performed under LNTP No. 1 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 1 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 1 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 1 in Schedule C-1.

2. No later than March 15, 2014, Owner shall issue to Contractor LNTP No. 2 in the form of Schedule H-4 ("***LNTP No. 2***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 2, subject to the payment provisions and maximum payments set forth in LNTP No. 2. The intent of LNTP No. 2 is to allow Contractor to issue Subcontracts for certain critical long lead Equipment items as further set forth in LNTP No. 2. All Work performed under LNTP No. 2 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 2 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 2 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 2 in Schedule C-1. If Owner fails to issue LNTP No. 2 on or before March 15, 2014 or FLIQ1 fails to issue its second limited notice to proceed under the Train 1 EPC Agreement on or before the date set forth therein for its second limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

3. No later than May 1, 2014, Owner shall issue to Contractor LNTP No. 3 in the form of Schedule H-5 ("***LNTP No. 3***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 3, subject to the payment provisions and maximum payments set forth in LNTP No. 3. The intent of LNTP No. 3 is to allow Contractor a full release of engineering and procurement activities under the Agreement to the extent set forth in LNTP No. 3. All Work performed under LNTP No. 3 shall be performed pursuant to the terms and conditions of this Agreement and payment for Work performed under LNTP No. 3 shall be invoiced in accordance with Article 7 and the Payment Milestone Schedule based upon completion of Payment Milestones by performance of Work under LNTP No. 3 (and thereby be credited against the Contract Price); *provided that*, the maximum amount invoiced for Work performed under LNTP No. 3 cannot exceed the maximum amount set forth in LNTP No. 3 even if Payment Milestones in amounts greater than such

maximum amount are completed during the performance of LNTP No. 3. If Owner fails to issue LNTP No. 3 on or before May 1, 2014, or FLIQ1 fails to issue its third limited notice to proceed under the Train 1 EPC Agreement by the date set forth therein for its third limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

4. At any time prior to the date of issuance of NTP, Owner may issue additional LNTPs in the form set forth in Schedule H-1, which shall authorize Contractor to commence performance of a specified portion of the Work; *provided that*, if issuance of such additional LNTP interferes with or delays the sequence and timing of Contractor's planned execution of the Work, then Contractor shall be entitled to a Change Order to adjust the Contract Price and Project Schedule in accordance with Section 6.9 as a result of the issuance of such additional LNTP. Each such LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Contract Price (as it may be adjusted by Change Order) and the first progress payment(s) to become due hereunder. Each LNTP shall be performed on a fixed-price basis, in accordance with the Payment Milestones defined in Attachment C, Schedule C-1 and the agreed upon payment terms, unless otherwise mutually agreed in writing by the Parties.

B. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Upon Contractor's receipt from Owner of the NTP, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-2. If Owner fails to issue NTP on or before August 1, 2014, or FLIQ1 fails to issue notice to proceed under the Train 1 EPC Agreement on or before August 1, 2014, then Contractor shall have the rights set forth in Section 5.2C.

C. ***Contract Price and Train 2 Project Schedule Validity and Delay in Issuance of LNTPs or NTP***. Subject to Section 5.2C.1 below, in order for the Contract Price and Train 2 Project Schedule to remain valid under this Agreement, Owner shall issue LNTP No. 2, LNTP No. 3 and NTP on or before the dates set forth in Sections 5.2A.2, 5.2A.3 and 5.2B, respectively, and FLIQ1 shall issue its second and third limited notices to proceed and notice to proceed under the Train 1 EPC Agreement on or before such same dates (as further set forth in Sections 5.2A.2, 5.2A.3 and 5.2B of the Train 1 EPC Agreement). If Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP, or FLIQ1 fails to issue its second or third limited notice to proceed or notice to proceed, in accordance within the dates established by the foregoing sentence, as such dates may be extended as set forth in Section 5.2C.1 below, then Contractor shall be entitled to an adjustment to the Contract Price and the Train 2 Project Schedule (including the Guaranteed Substantial Completion Date) if and to the extent the Parties' utilization of an open book estimate process substantially similar to that performed under the FEED Agreement shows, through a reevaluation of the Contract Price and Train 2 Project Schedule (including Subcontracts, labor costs, per diems, equipment and bulk material

costs and delivery schedules), that issuance of LNTP No. 2, LNTP No. 3 or NTP under this Agreement, or the second or third limited notice to proceed or notice to proceed under the Train 1 Agreement, after the required dates set forth herein (as compared to on or before such dates) has resulted in increased costs chargeable to Contractor or an increased time for the performance of the Work (including 19% on such increased costs for Contractor's G&A and profit). For the avoidance of doubt, any adjustment to the Contract Price or Train 2 Project Schedule shall not be based upon a change in the scope of engineering work or the quantity of materials or equipment, or the amount of field labor or field in-directs, unless the staffing plan or Train 2 Project Schedule is materially affected by late issuance of the LNTPs or NTP described in this Section. Contractor shall use commercially reasonable efforts and GECP to mitigate the increase to the Contract Price or delay to the Train 2 Project Schedule.

1. If Contractor has not procured and delivered to Owner price and schedule offers on the CLL Equipment (as defined in LNTP No. 2) by February 15, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 2 shall extend Day-for-Day for each Day beyond February 15, 2014 that Contractor has not so procured such price and schedule offers and delivered them to Owner. In addition, if Contractor has not procured and delivered to Owner price and schedule offers (as applicable) for the remaining Provisional Sum Scope Items and Schedule Adjustment Items by April 1, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 3 shall extend Day-for-Day for each Day beyond April 1, 2014 that Contractor has not so procured the applicable price and schedule offers and delivered them to Owner.

2. In the event that Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP within the time periods required by this Agreement, or FLIQ1 fails to issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 1 EPC Agreement, and the Parties have not mutually agreed in writing to extend the applicable time periods (or they have not been extended pursuant to Section 5.2C.1), Contractor shall be entitled to an adjustment to the Contract Price and Train 2 Project Schedule as set forth in Section 5.2C above and such adjustments shall be set forth in a Change Order prior to Contractor being required to commence Work under an NTP issued by Owner. For purposes of clarity, in the foregoing circumstances, Owner may also not require Contractor to commence the Work (other than Work already authorized under prior LNTPs or LNTPs allowed as set forth below) pursuant to a unilateral Change Order issued under this Agreement; *provided that*, notwithstanding the foregoing, Owner shall retain the right to issue additional LNTPs pursuant to Section 5.2A.4 for the limited purposes of progressing activities related to receiving an Updated Contract Price and Train 2 Project Schedule Proposal and otherwise mitigating against potential increases in the Contract Price and Train 2 Project Schedule related thereto.

3. Prior to issuance of NTP, Owner and Contractor shall meet monthly (either as part of the Monthly progress meeting under Section 3.19B or apart therefrom) to discuss the status of pending Permits, Owner's financing progress for the Expansion Facility and otherwise discuss any potential concerns related to Owner being able to achieve the LNTP and NTP time periods set forth above. If necessary, Owner shall have the right to submit a written notice to Contractor notifying Contractor that Owner may not issue LNTP No.2, LNTP No. 3 or NTP within the time periods required by this Agreement (or that FLIQ1 may not issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 1 EPC Agreement) and requiring Contractor to prepare an updated proposal for the Contract Price and Train 2 Project Schedule (the "***Updated Contract Price and Train 2 Project Schedule Proposal***") to be valid for Owner's acceptance for a period of ninety (90) Days from its issuance to Owner (or such other validity period that may be agreed upon by the Parties in writing). Such Updated Contract Price and Train 2 Project Schedule Proposal shall be performed in accordance with Section 5.2C above. In Owner's written notice to Contractor for the Updated Contract Price and Train 2 Project Schedule Proposal, Owner may request that Contractor's proposal include plans to accelerate the Work in order to maintain, to the extent practicable, the original Train 2 Project Schedule. Upon receipt of the written notice from Owner, Contractor shall promptly commence the update to the Contract Price and Train 2 Project Schedule and shall submit the Updated Contract Price and Train 2 Project Schedule Proposal as promptly as practicable, but in any event no more than sixty (60) Days after receipt of the foregoing written notice from Owner. Once received by Owner, the Updated Contract Price and Train 2 Project Schedule Proposal shall be subject to negotiation between Owner and Contractor, and if there are agreed adjustments, such adjustments shall be valid for Owner's acceptance within the validity period for the Updated Contract Price and Train 2 Project Schedule Proposal (or such other validity period that may be agreed upon in writing by the Parties). If the Parties agree on an updated Contract Price and Train 2 Project Schedule, the adjustments to the Contract Price and Train 2 Project Schedule shall be adjusted by Change Order signed by Owner and Contractor.

4. The Updated Contract Price and Train 2 Project Schedule Proposal shall be based upon a mutually agreed Work scope to continue under one or more LNTPs under this Agreement (and corresponding limited notices to proceed under the Train 1 EPC Agreement) until issuance of NTP hereunder by Owner and notice to proceed by FLIQ1 under the Train 1 EPC Agreement. If the Parties have not agreed upon an updated Contract Price and Train 2 Project Schedule, and Owner has not issued NTP under this Agreement (and FLIQ1 has not issued notice to proceed under the Train 1 EPC Agreement) within the validity period of the applicable proposal, Sections 5.2C.1 through 5.2C.3 shall apply in the event Owner requests subsequent updated proposals for the Contract Price and Train 2 Project Schedule.

5.3 **Train 2 Project Schedule**. Contractor shall perform the Work in accordance with the Train 2 Project Schedule set forth in this Section 5.3 and in Attachment E.

A. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Train 2 Expansion no later than 1,645 Days following Owner's issuance of LNTP No. 3 to Contractor ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

B. ***Required Final Completion Date***. Contractor shall achieve Final Completion no later than ninety (90) Days after achieving Substantial Completion ("***Required Final Completion Date***"). The Required Final Completion Date shall only be adjusted by Change Order as provided under this Agreement.

C. ***Schedule Adjustment Items***. The Train 1 Project Schedule shall be subject to adjustment prior to, or upon, issuance of LNTP No. 2 and LNTP No. 3 for certain Schedule Adjustment Items as further set forth in Attachment DD. Any such adjustments shall be set forth by Change Order issued in accordance with Attachment DD.

5.4 **CPM Schedule**.

A. ***Baseline CPM Schedule Submissions***. Within sixty (60) Days after the Owner's issuance of the NTP, Contractor shall prepare and submit to Owner for its review and written approval a baseline critical path method schedule consisting of a resource/work-hour loaded CPM Schedule using Primavera Project Planner version 6.x or higher detailed to a discipline, craft and subsystem level based upon the Work Breakdown Structure (upon Owner's approval, the "***Baseline CPM Schedule***"). The Baseline CPM Schedule shall, at a minimum, be detailed as a resource loaded schedule with project unit area, and discipline (as described in the Work Breakdown Structure) for activities for the Train 2 Project (including engineering, procurement, construction, pre-commissioning, commissioning, testing and startup), shall be fully integrated, shall be consistent with the Train 2 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date, and shall show an uninterrupted critical path from NTP through RFSU, RLFC, Substantial Completion and Final Completion. In addition, the Baseline CPM Schedule shall be capable of being integrated with the baseline critical path method schedule developed under the Train 1 EPC Agreement in order to produce a master baseline critical path method schedule for the combined Train 1 Project and Train 2 Project. With respect to each activity in the Baseline CPM Schedule, the Baseline CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value and projected work-hours as well as identify the Work interfaces for other parties' activities (including Owner, Owner's other contractors, and utility companies), which shall be sorted by the Work Breakdown Structure and scheduled start or another format agreed upon by Owner. The Baseline CPM Schedule shall represent Contractor's judgment, using GECP, as to how it shall complete the Work in compliance with the Train 2 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date. The Baseline CPM Schedule shall be submitted in electronic format, created by Primavera

Project Planner software back-up utility and including all Primavera Project Planner network data. Contractor shall submit with the Baseline CPM Schedule the following: (a) Primavera based listing of "predecessor/successor" in tabular format showing activities in the Baseline CPM Schedule, their predecessor activities and relationships and their successor activities and relationships; (b) progress "S" curve, showing the baseline plan, actual and forecast progress by Month for total progress of the Work, which shall be based on the Baseline CPM Schedule; (c) engineering discipline and overall engineering and construction manpower histograms showing forecast manpower required by Month, for scheduled completion of the Work; (d) Drawing log showing the Drawing number, title, planned, actual and forecast issue for construction ("***IFC***") release dates by discipline and reporting period; and (e) procurement log showing the Equipment Subcontract order number, description, forecast and actual bid release dates, Equipment Subcontract order release dates, required-at-Site dates and delivery dates.

B. ***Monthly Updated CPM Schedules.*** After approval by Owner of the Baseline CPM Schedule described in Section 5.4A, Contractor shall manage and update (no less frequently than once every month), using GECP, a critical path method schedule for the Work with Primavera Project Planner (each such updated schedule being a "***Monthly Updated CPM Schedule***") showing the actual, up-to-date progress of the Work and forecasted Work activities. The Monthly Updated CPM Schedule shall not modify the Baseline CPM Schedule or the Train 2 Project Schedule (including the Guaranteed Substantial Completion Date or the Required Final Completion Date), nor shall it change any dates that relate to Owner's obligations or Work interfaces under the Agreement. Each Monthly Updated CPM Schedule shall meet the requirements of Section 5.4 and Attachment X, and in addition shall (i) at a minimum be prepared with the same level of detail as the Baseline CPM Schedule, (ii) show the Baseline CPM Schedule, (iii) for each activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity and forecasted completion date for each such activity, (v) for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of RFSU, RLFC, Substantial Completion and Final Completion, and (vii) update the Monthly Updated CPM Schedule with all other information shown in the Baseline CPM Schedule, reflecting the Work as actually performed or as forecasted. In addition, the Monthly Updated CPM Schedule shall be capable of being integrated with the monthly updated critical path method schedule developed and updated under the Train 1 EPC Agreement in order to produce a master monthly updated critical path method schedule for the combined Train 1 Project and Train 2 Project. The Monthly Updated CPM Schedule shall be submitted to Owner in the same detail and form as required by the Baseline CPM Schedule. If Contractor changes the schedule logic, any durations or resource-loading with respect to any activity in its Monthly Updated CPM Schedule such that it deviates from the Baseline CPM Schedule, Contractor shall provide Owner with a written explanation of each such change along with the Monthly Updated CPM Schedule (but the Baseline CPM Schedule shall not be changed). Contractor shall promptly correct any errors or inconsistencies in the updates to the Monthly Updated CPM Schedule identified to Contractor by Owner and shall re-submit a corrected Monthly Updated CPM Schedule to Owner for review.

C. ***Review, Comments and Approvals of CPM Schedules***.

1. In addition to the approval of the Baseline CPM Schedule described in Section 5.4A, Owner shall review and approve any proposed adjustments to the Baseline CPM Schedule. The Baseline CPM Schedule shall not be adjusted except by Change Order.

2. No more than once every three (3) Months, Owner shall have the right to review, analyze and comment on the Monthly Updated CPM Schedule. As a component of the process for Owner's review of the Monthly Updated CPM Schedule pursuant to this Section 5.4C.2, Owner and Contractor shall conduct a schedule workshop with the Monthly Updated CPM Schedule and conduct a detailed schedule analysis on the CPM Schedule with third party software applications (selected and provided by Owner, at its cost) capable of performing forensic, metric and logic analysis on the CPM Schedule (such as Acumen Fuse^{TM} or P6 Project Integrity Checker). A mutually agreed upon set of parameters and thresholds shall be set forth in writing and used by Contractor and Owner for this review. Based upon the schedule analysis (including the use of the third party software applications) and the agreed upon schedule parameters and thresholds, schedule corrections and/or optimizations shall be generated. All such correction and/or optimizations shall be mutually resolved by Contractor and Owner.

3. Any review, comment or approval by Owner of the Baseline CPM Schedule, any adjustments to the Baseline CPM Schedule or any Monthly Updated CPM Schedule shall not relieve Contractor of any obligations for the performance of the Work, nor shall it be construed to establish the reasonableness of the Baseline CPM Schedule or any Monthly Updated CPM Schedule. In addition, any review, comment or approval by Owner of any Monthly Updated CPM Schedule is for purposes of verifying Contractor's development of Monthly Updated CPM Schedules meeting the requirements of Section 5.4 and shall not, under any circumstances, change the Train 2 Project Schedule (including the Guaranteed Substantial Completion Date), alter the timing of any of Owner's obligations or Work interfaces identified in the Baseline CPM Schedule or otherwise modify any other aspect of the Baseline CPM Schedule. Owner shall be entitled to reasonably rely upon the Baseline CPM Schedule and any Monthly Updated CPM Schedules, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to plan, organize, direct, coordinate, perform, execute and complete each portion of the Work within the times set forth in the Train 2 Project Schedule.

D. ***30 Day Look-ahead Schedule***. No later than the tenth (10th) Day of each Month, Contractor shall submit to Owner a 30 Day look-ahead schedule ("***30 Day Look-ahead Schedule***"), which shall be based on the Monthly Updated CPM Schedule showing in detail the activities to be performed during the next thirty (30) Days, including target, forecast and actual dates for each activity, shall be detailed into project unit area

and discipline, and shall meet all other requirements of updates to the Monthly Updated CPM Schedule as described in Section 5.4C.

E. ***Form of Submittals; Access to Native Files***. Submittals of the Baseline CPM Schedule (as may be adjusted from time to time via Change Order) and the Monthly Updated CPM Schedules by Contractor to Owner shall be in both native electronic and paper format. Native electronic submissions of the Baseline CPM Schedule and the Monthly Updated CPM Schedules shall be provided via password-protected document control system access and may be downloaded from the secure system by Owner personnel having password authorization. Four (4) hard copies of each submittal shall be provided to Owner, and one (1) electronic copy shall be provided to Owner. Owner acknowledges that the native electronic files of the Baseline CPM Schedule and the Monthly Updated CPM Schedules include Contractor's Confidential Information of an extremely sensitive nature that is governed by the terms of this Agreement's confidentiality provisions. In addition to its confidentiality obligations hereunder, Owner shall regulate the distribution of, and access to, the native electronic files provided by Contractor on a need-to-know basis (including among its own employees and its Affiliates and Affiliates' employees) and shall only distribute such native electronic files to the extent necessary for the exercise of Owner's rights and obligations under this Agreement or as required by its Lenders. Such native electronic files shall be protected in the same manner, and under the same policies and procedures, that Owner protects Owner's Confidential Information, which such policies and procedures shall be of a level at least equal to industry standards for protection of like information.

F. ***Failure to Submit CPM Schedule***. In the event Contractor fails to provide the schedules in accordance with Sections 5.4 and 5.6, Owner shall have the right to withhold payment of Invoices due until compliance with Sections 5.4 and 5.6 is achieved.

5.5 **Recovery and Recovery Schedule**. If, at any time during the prosecution of the Work, (i) should the Monthly Updated CPM Schedule or Monthly Progress Report show that any activity on the critical path of the applicable CPM Schedule is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date (as such Guaranteed Substantial Completion Date or Required Final Completion Date may be adjusted by Change Order executed by the Parties), or should Contractor fail to provide a Monthly Updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on the critical path is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date, or should Contractor fail to achieve any Schedule Milestone within thirty (30) Days after the date specified for such Schedule Milestone (as such Schedule Milestones may be adjusted by Change Order executed by the Parties) and (ii) Contractor or any of its Subcontractors or Sub-subcontractors are in Owner's reasonable judgment responsible for such delay, Owner may, in addition to any other remedies that it may have under this Agreement, require that Contractor prepare a schedule to explain and display how it intends to regain compliance with the Baseline CPM Schedule during the immediate subsequent pay period or other period selected by Owner ("***Recovery Schedule***"). Contractor shall do the following after written notification by Owner of the requirement for a Recovery Schedule:

A. Within ten (10) Business Days after such written notification, Contractor shall prepare the Recovery Schedule and submit it to Owner for its review. Contractor shall prepare the Recovery Schedule even if Contractor disputes Owner's determination of the need for a Recovery Schedule. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline CPM Schedule. The Recovery Schedule shall be prepared in accordance with GECP and to a similar level of detail as the Baseline CPM Schedule, and shall have (unless otherwise specified in writing by Owner) a maximum duration of sixty (60) Days unless otherwise mutually agreed.

B. Within ten (10) Business Days after Contractor submits a Recovery Schedule, Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for review by Owner within three (3) Days after the conference. The revised Recovery Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of Subcontractors and Sub-subcontractors) for the duration specified in Section 5.5A, to regain compliance with the Baseline CPM Schedule.

C. Contractor shall perform the Work in accordance with the Recovery Schedule.

D. Five (5) Days prior to the expiration of the Recovery Schedule, Contractor shall meet with Owner at the Site to determine the effectiveness of the Recovery Schedule and to determine whether Contractor has regained compliance with the Baseline CPM Schedule. At the direction of Owner, one of the following shall happen:

1. If, in the opinion of Owner, Contractor is still behind schedule, Contractor shall be required to prepare another Recovery Schedule pursuant to Section 5.5A above, to take effect during the immediate subsequent pay period or other period selected in writing by Owner. Contractor shall prepare such Recovery Schedule even if Contractor disputes Owner's opinion.

2. If, in the opinion of Owner, Contractor has sufficiently regained compliance with the Baseline CPM Schedule, Contractor shall return to the use of the Baseline CPM Schedule.

E. In preparing and executing the Recovery Schedule, Contractor shall take all steps necessary to regain compliance with the Baseline CPM Schedule, including establishing additional shifts, hiring additional manpower, paying or authorizing overtime, providing additional equipment, and resequencing activities.

F. The cost of preparing the Recovery Schedule, and performing in accordance therewith, shall be for Contractor's account.

G. Owner's requirement, review and approval of the Recovery Schedule, or its decision not to request a Recovery Schedule, shall not relieve Contractor of any

obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Required Final Completion Date, or be construed to establish the reasonableness of the Recovery Schedule.

H. Failure of Contractor to comply with its obligation to provide a Recovery Schedule in accordance with this Section 5.5, after Owner provides Contractor with fifteen (15) Days prior written notice, shall be a Default.

5.6 **Acceleration and Acceleration Schedule**. Even if the Work is otherwise in compliance with the Baseline CPM Schedule, Owner may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, providing additional construction equipment or expediting Equipment; *provided, however*, (i) in no event shall Owner unilaterally order acceleration of the Work requiring Contractor to achieve Substantial Completion or Final Completion prior to the respective, original Guaranteed Substantial Completion Date or Required Final Completion Date and (ii) unless the Parties mutually agree by Change Order to adjustments to the Train 2 Project Schedule as a result of the acceleration, Contractor's obligation with respect to an acceleration directive from Owner shall be limited to using commercially reasonable efforts to accelerate the Train 2 Project Schedule. In the event of this directive, Owner's sole liability shall be to pay to Contractor any documented costs clearly and solely attributable to such acceleration. Such costs may include any incremental overhead or administrative costs, shift differential, premium, margin on incremental costs, increased costs resulting from any inefficiencies realized as a result of such acceleration, costs to expedite, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work (including additional indirect staff) on a full-time basis actually incurred over and above Contractor's normal rates, and overtime charges for equipment. Any adjustment to the Contract Price or any other Changed Criteria that the Parties agree in writing will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order. If Owner directs Contractor in writing to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by Owner, and shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Baseline CPM Schedule (the "***Acceleration Schedule***"). With respect to the Acceleration Schedule, Contractor shall do the following:

A. No later than the tenth (10^{th}) Business Day after such directive or such longer time as may be mutually agreed in writing by the Parties, Contractor shall prepare the Acceleration Schedule and submit it to Owner for its review. The Acceleration Schedule shall represent Contractor's best judgment as to how it shall satisfy Owner's acceleration directive. The Acceleration Schedule shall be prepared using GECP and to a similar level of detail as the Baseline CPM Schedule.

B. On the tenth (10^{th}) Business Day after such directive (or such longer time as may be mutually agreed in writing by the Parties), Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Acceleration Schedule. Any revisions to the Acceleration Schedule necessary as a result of this review shall be resubmitted for review by Owner no later than the tenth (10th) Day

after such meeting or such other date as may be agreed in writing by the Parties. The revised Acceleration Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing that portion of the Work that is affected by such acceleration, with the Baseline CPM Schedule governing the performance of all other Work.

C. Owner's review and approval of the Acceleration Schedule shall not constitute an independent evaluation or determination by Owner of the workability, feasibility, or reasonableness of that schedule.

ARTICLE 6
CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 **Change Orders Requested by Owner**. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

A. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within five (5) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Contract Price, the Train 2 Project Schedule, the Design Basis, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees, or any other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). With Contractor's response, Contractor shall provide a written statement to Owner that sets forth the effects, if any, that the proposed Change Order would have on the contract price, project schedule or other obligation or liability of Contractor under the Train 1 EPC Agreement, and Contractor shall provide a copy of such notice to FLIQ1 pursuant to the Train 1 EPC Agreement. If it is not possible for Contractor to provide all of the information required under this Section 6.1A to be submitted with such written statement within such five (5) Business Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such five (5) Business Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed Change Order from Owner. The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.6B.

1. In the event that Owner requests Contractor to prepare a response to a proposed Change Order pursuant to Section 6.1A, and Contractor believes that the incremental cost to be incurred by Contractor in order to prepare such response will exceed Eight Thousand U.S. Dollars (U.S.$8,000), then Contractor shall give Owner written notice within five (5) Business Days after receipt of Owner's request, and prior to incurring costs with respect to such response, identifying such threshold may be exceeded and providing Owner with an estimate of the incremental cost to prepare such response to the proposed Change Order. Owner shall then have the right to request Contractor

to proceed with the response or not. If Owner requests Contractor to proceed and Owner ultimately decides not to enter into a Change Order based upon this response, then Owner's payment responsibility shall be for Contractor's incremental costs above the foregoing threshold amount incurred in providing the response to the proposed Change Order (but not to exceed Contractor's estimated cost for the Change Order response unless prior approval is given by Owner in writing).

B. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement; *provided that*, even if the Parties agree upon the Changed Criteria, if Contractor has timely notified Owner pursuant to Section 6.1A above that the proposed Change Order would affect Contractor's obligations or liabilities under the Train 1 EPC Agreement, then Owner and Contractor may not execute the contemplated Change Order unless and until either (i) the proposed Change Order is modified such that no obligations or liabilities of Contractor under the Train 1 EPC Agreement are affected or (ii) FLIQ1 ratifies the proposed Change Order by executing a corresponding change order pursuant to the Train 1 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 1 EPC Agreement that result from the Change Order contemplated under this Agreement.

C. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1A, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order on a time and materials basis using the rates as set forth in Schedule D-4, or if not specified therein, at rates not to exceed then-current market rates with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible. If the Parties cannot agree on the effect of such unilateral Change Order by the date of Final Completion, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) and

shall diligently perform the changed Work or other obligations required in such unilateral Change Order.

1. Notwithstanding anything to the contrary in Section 6.1C or 6.2D, Owner shall not have the right to issue a unilateral Change Order pursuant to such Section 6.1C or 6.2D if Contractor has notified Owner pursuant to Section 6.1A that the proposed Change Order will affect Contractor's obligations or liabilities under the Train 1 EPC Agreement unless and until (i) the unilateral Change Order is modified such that no obligations or liabilities of Contractor under the Train 1 EPC Agreement are affected or (ii) FLIQ1 ratifies the proposed Change Order by executing a corresponding unilateral change Order pursuant to the Train 1 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 1 EPC Agreement that result from the unilateral Change Order issued under this Agreement.

6.2 **Change Orders Requested by Contractor**.

A. Contractor shall only have the right to request a Change Order in the event of any of the following occurrences:

1. Acts or omissions of Owner, or of any Owner Indemnified Parties or any other Person acting on behalf of or under the control of Owner, that constitute a breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to delays (as that term is defined Section 6.10) caused by any Owner Indemnified Parties or any Person acting on behalf or under the control of Owner, compensation and a time extension to the Train 2 Project Schedule to the extent allowed under Section 6.9;

2. Force Majeure to the extent allowed under Section 6.8A;

3. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued;

4. To the extent Contractor has complied with Section 3.17, discovery of pre-existing Hazardous Materials at the Site that adversely affect Contractor's cost (which costs shall be adequately documented and supported by Contractor) of the performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such discovery of pre-existing Hazardous Materials, compensation and a time extension to the Train 2 Project Schedule to the extent allowed under Section 6.9;

5. To the extent expressly permitted under Section 2.5B.2, 2.5B.3, 3.3C.5, 3.24A, 4.8A(i), 4.8B(i), 4.8C, 4.8D, 4.8E.1, 5.2C, 6.15, 7.10B, 8.2A.3,

8.2A.4, 11.1D.2, 12.2A, 16.6, 21.22D, or 21.22E, or Section 4.13.8, 14.2, 14.6 or 14.22 of Schedule A-1, Section 6.1 of Schedule A-2, Section 5.1 of Schedule A-3, or Section 1.P or 2.D of Attachment O;

6. Purchase of operating spare parts in accordance with Section 3.4C;

7. Suspension in Work ordered by Owner pursuant to Section 16.3 or a suspension in Work allowed to Contractor pursuant to Section 16.4;

8. Changes in Law that materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such Changes in Law, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9; or

9. To the extent expressly permitted under Attachment DD.

B. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.6, notify Owner in writing and issue to Owner, at Contractor's expense, a request for a proposed Change Order in the form attached hereto as Schedule D-3, a detailed explanation of the proposed change and Contractor's reasons for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.6. Any adjustments to the Contract Price shall be requested on a fixed price separated basis according to Article 7 (or such other pricing basis as the Parties may mutually agree in writing) and shall be derived from the rates set forth in Schedule D-4 to the extent applicable or, if not stated therein, derived from rates not to exceed then-current market rates.

C. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

D. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1C are applicable.

E. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required

under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, as modified by any previously agreed Change Orders, and with the terms of any unilateral Change Orders.

6.3 **Change Orders Requested by FLIQ1 Under the Train 1 EPC Agreement**. Contractor shall provide Owner with written notice as to whether any change orders proposed by FLIQ1 under the Train 1 EPC Agreement will affect Contractor's obligations or liabilities under this Agreement. Such notice shall be provided by Contractor within five (5) Business Days after Contractor's receipt of the proposed change order from FLIQ1, *provided that*, if it is not possible for Contractor, using GECP, to determine whether the proposed change order will affect Contractor's obligations or liabilities under this Agreement within such five (5) Business Day period, Contractor shall provide Owner with written notice of the potential of such an impact within such 5-Business Day period along with as a written explanation of the reason that additional time is required. Contractor shall then exercise reasonable diligence to provide information on the effects to Contractor's obligations or liabilities under this Agreement as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed change order from FLIQ1. Upon receipt of such written notice, Owner shall promptly coordinate with FLIQ1 and Contractor to discuss the impacts to Contractor's obligations and responsibilities under this Agreement and the Expansion Facility overall. Thereafter, Owner will respond to Contractor by either (i) ratifying FLIQ1's proposed change order (as such proposal may be modified as a result of the discussions between Contractor, Owner and FLIQ1) by executing a corresponding Change Order (whether mutual or unilateral) pursuant to this Agreement or (ii) rejecting the effects of FLIQ1's proposed action on the Train 2 Project. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 6.3 that a FLIQ1 proposed change order will affect the liabilities and obligations of Contractor under this Agreement, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement resulting from a change order proposed and/or implemented by FLIQ1 under the Train 1 EPC Agreement.

6.4 **Contract Price Adjustment; Contractor Documentation**. If a Change Order is executed on a time and materials basis pursuant to Section 6.1C or 6.2D, then interim payments shall be made to Contractor in accordance with the terms of Section 6.1C for such unilateral Change Order Work; *provided that* the Contract Price shall not be adjusted unless and until the a mutual Change Order is executed by the Parties that supersedes the unilateral Change Order (and such mutual Change Order adjusts the Contract Price) or the dispute underlying the unilateral Change Order is resolved in accordance with Article 18 requiring an adjustment to the Contract Price. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets, invoices and receipts. With respect to all unilateral and mutual Change Orders, as well as any requests for Change Orders by Contractor pursuant to Section 6.2, Contractor shall maintain and present all applicable Books and Records and other documentation related to such actual or requested Change Orders in a manner that would allow

such documentation (including cost and schedule-related information) to be segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

6.5 **Change Orders Act as Accord and Satisfaction**. Change Orders agreed pursuant to Section 6.1B or 6.2C by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1C or 6.2D on a time and materials basis and which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a superseding and mutually agreed upon Change Order as provided in Section 6.1B or 6.2C, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for all direct and indirect impacts of such change. Accordingly, unless otherwise expressly and conspicuously stated in such Change Order, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work); *provided, however*, Contractor may only expressly reserve its right under a Change Order to make such claim or demand or take any such action or proceeding against Owner if Contractor is not able in good faith to determine, using GECP, all of the effects of the change at the time of executing such Change Order and, *provided further*, subject to Section 6.5A, that if Contractor so expressly reserves its rights in accordance with this Section 6.5, Contractor shall make such claim or demand or take any such action or proceeding against Owner within a reasonable time but in no event later than three (3) months after the date of such Change Order (unless the Parties mutually agree to extend such time period in writing), and if Contractor fails to bring such claim or demand within such three (3) month period (or such longer time period as the Parties mutually agree in writing), Contractor is deemed to have forever waived and released such claim or demand.

A. The foregoing three (3) month time period set forth in Section 6.5 for Contractor bringing forth to Owner a previously reserved claim or demand shall not apply for Change Orders requested under Sections 6.2A.2, 6.2A.3, 6.2A.8, 8.2A.3, or 8.2A.4 and, in such circumstances, Contractor shall bring such previously reserved claim or demand as soon as reasonably possible using GECP but no later than prior to Substantial Completion.

6.6 **Timing Requirements for Notifications and Change Order Requests by Contractor**. Should Contractor desire to seek an adjustment to the Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Milestone Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

A. notify Owner in writing of the existence of such circumstance within twenty (20) Days after the date that Contractor's Key Personnel knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* if such circumstance is an emergency, oral notice shall be given immediately, followed with written notice within three (3) Days after the date such oral notice is provided. In such notice (written or oral), Contractor shall state in detail all known and presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the good faith estimate of cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the applicable CPM Schedule), any other details or information that are expressly required under this Agreement and any information and documents relevant to such claim or circumstance. Contractor shall only be required to comply with the notice requirements of this Section 6.6A once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

B. submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner written notice but in no event later than seven (7) Days after the completion of each such circumstance, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Schedule D-4, detailed estimates and cost records, daily time sheets and a graphic demonstration using the applicable CPM Schedule, showing Contractor's entitlement to a time extension to the Train 2 Project Schedule pursuant to the terms of this Agreement, which shall be provided in hard copy and in native electronic format in accordance with Section 5.4E); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria. If it is not possible for Contractor to provide all of the information required under this Section 6.6B to be submitted with such proposed Change Order within such seven (7) Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such seven (7) Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's submission of such proposed Change Order.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.6, and agree that such requirements are an express condition precedent necessary to any right for an adjustment in Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement.

6.7 **Adjustment Only Through Change Order**. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or Required Final Completion Date, Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6. Contractor shall not perform any change in the Work unless and until such change is authorized pursuant to this Article 6, and should Contractor perform or claim to perform any changes in the Work prior to authorization by Change Order, all such costs and expenses incurred by Contractor shall be for Contractor's account. No course of conduct or dealings between the Parties, nor express or implied acceptance of additions, deletions, suspensions or modifications to this Agreement, including any Work, and no claim that Owner has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim for an adjustment in the Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, the Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor under this Agreement.

6.8 **Force Majeure**.

A. ***Contractor Relief***.

1. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an extension to the Guaranteed Substantial Completion Date or the Required Final Completion Date if such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11. Subject to Section 6.8A.2, the Parties agree that Contractor's sole remedy for such delay shall be an adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date, as applicable, pursuant to a Change Order. Any adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date shall be recorded in a Change Order.

2. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an adjustment to the Contract Price as provided in (a) or (b) below if Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11 and meets the requirements of either (a) or (b) below. Any adjustment to the Contract Price shall be recorded in a Change Order.

(a) With respect to any one or more hurricanes or named tropical storms in (or forecasted by the National Weather Service to make landfall in) the Texas Gulf Coast region that constitute a Force Majeure event, Contractor shall be entitled to an adjustment to the Contract Price for reasonable incremental costs (including for field indirect personnel and field overhead) necessarily incurred by Contractor (i) to prepare the Work on the Site to safely weather such hurricane or named tropical storm, (ii) during demobilization of Contractor's personnel and applicable construction equipment from the Site to a safe off-Site location prior to the Force Majeure and (iii) during remobilization of Contractor's personnel and applicable construction equipment from the off-Site location to the Site after the Force Majeure; *provided that* Contractor shall bear at its own expense the first Three Hundred Seventy-Five Thousand U.S. Dollars (US$375,000) of such costs with respect to any one hurricane or named tropical storm, *provided further that* the aggregate amount which Contractor shall be required to bear with respect to the above costs is One Million U.S. Dollars (US$1,000,000).

(b) In the event that any one or more Qualified Force Majeure Events, in the aggregate, cause Contractor to achieve Substantial Completion more than thirty (30) Days after the Guaranteed Substantial Completion Date, Contractor shall be entitled to an adjustment to the Contract Price for reasonable costs necessarily incurred by Contractor for further delay occurring after the expiration of such thirty (30) Day aggregate period as a result of Qualified Force Majeure Events. A "***Qualified Force Majeure Event***" is a single Force Majeure event that otherwise meets the requirements of Section 6.8A.1 and causes Contractor to achieve the Substantial Completion five (5) or more Days after the Guaranteed Substantial Completion Date.

B. ***Owner Relief***. Subject to Section 6.8C, Owner's obligations under this Agreement shall be suspended to the extent that performance of such obligations is delayed by Force Majeure.

C. ***Payment Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement shall be excused by reason of Force Majeure.

6.9 **Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law**. Should (i) Owner, or any Owner Indemnified Party or any other Person acting on behalf or under the control of Owner, subject to Section 21.22, delay the commencement, prosecution or completion of the Work, and to the extent such delay is not attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement or such delay is caused by Owner's ordering a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1), or (ii) the commencement, prosecution or completion of the Work be delayed as a result of (1) subsurface conditions for which Contractor is entitled to adjustments to the Contract Price and/or Train 2 Project Schedule, as applicable, under Section

2.5B.2, (2) Contractor's discovery of pre-existing Hazardous Materials on the Site for which Contractor is entitled to relief under Section 6.2A.4, (3) Changes in Law for which Contractor is entitled to relief under Section 6.2A.8, (4) Owner's interference with the Work for which Contractor is entitled to relief under Section 3.24A, (5) Owner's failure to provide natural gas feed in the amounts and at the times required by Section 4.8A(i) (unless due to Force Majeure), (6) Owner's failure to provide electricity in the amounts and at the times required by Section 4.8B(i) (unless due to Force Majeure), (7) Owner's failure to provide propane or ethylene in the amounts and at the times required by Section 4.8C (unless due to Force Majeure), (8) Owner's failure to provide LNG evacuation in accordance with Section 4.8D and 11.1C (unless due to Force Majeure) for which Contractor is entitled to relief under Section 4.8D, (9) Owner's failure to provide LNG Tanker loading opportunities as further set forth in Section 4.8E.1 (unless due to Force Majeure) for which Contractor is entitled to relief under such Section 4.8E.1, (10) Owner's failure to deliver the RLFC LNG Tanker for which Contractor is entitled to relief under Section 11.1D.2 or (11) a suspension of the Work for which Contractor is entitled to relief under Section 6.2A.7, then Contractor shall, with respect to any of the above, be entitled to request a Change Order for an adjustment in the Contract Price and an extension to the Train 2 Project Schedule if (w) such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule, (x) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, (y) Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and (z) Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements of Section 6.11. Any adjustment to the Contract Price shall be for reasonable, additional costs incurred by Contractor for such delay meeting the requirements of this Section 6.9, and any adjustments to the Contract Price or the Guaranteed Substantial Completion Date or Required Final Completion Date shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.9, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.9 shall be included in the Change Order incorporating such change in the Scope of Work.

6.10 **Delay**.

A. For the purposes of Sections 6.2A.1, 6.8 and 6.9, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

B. For the avoidance of doubt, the Parties recognize and agree that for the purposes of Section 6.8 and 6.9, a Work activity not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, Contractor is entitled to an extension to the Train 2 Project Schedule for those days of delay after which the non-critical path activity became a critical path activity, *provided that* such delay satisfies the other requirements under applicable Sections 6.8 and 6.9, including that such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date.

6.11 **Contractor Obligation to Mitigate Delay**. With respect to Sections 6.8 and 6.9, in no event shall Contractor be entitled to any adjustment to the Train 2 Project Schedule or adjustment to the Contract Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

6.12 **Separated Contract Price Adjustments in Change Orders**. Any adjustment by Change Order to the Contract Price which is made on a fixed price separated basis shall be separated pursuant to 34 Tex. Admin. Code Rule § 3.291(a)(13) to specify the applicable adjustments to the Tax Exempt Equipment Price, Taxable Equipment Price and Labor and Skills Price in accordance with Article 7. In addition, any such adjustment by Change Order to the Contract Price shall identify which component of the Contract Price that such adjustment is attributable to by adjusting the Common Contract Price Component and Train 2-Specific Contract Price Component as applicable. Change Orders shall also maintain an accounting of adjustments to the Common Development Work Compensation.

6.13 **Change Orders Affecting Common Development Work or the Common Development Work Compensation**. Notwithstanding anything to the contrary in this Article 6, no unilateral Change Order issued by Owner or mutual Change Order executed by the Parties, which relates to, impacts or modifies the Common Development Work (or any Changed Criteria relating to the Common Development Work) or the Common Development Work Compensation, shall be effective without FLIQ1 providing written approval of such unilateral or mutual Change Order; *provided that*, FLIQ1's approval requirement of any such Change Order (i) may be expressly waived in writing by FLIQ1 or (ii) is not applicable if either (1) Contractor has the right to suspend or has suspended the Common Development Work pursuant to the Train 1 EPC Agreement due to FLIQ2's failure to pay undisputed amounts owed thereunder, (2) the Train 1 EPC Agreement has been terminated or (3) Owner is exercising its rights under Section 6.14 below. Approval by FLIQ1 of the unilateral or mutual Change Order may come in the form of FLIQ1 executing a substantially identical unilateral or mutual change order under the Train 1 EPC Agreement. In addition, unless Owner and FLIQ1 agree otherwise in writing, any mutual Change Order under this Agreement and mutual change order executed under the Train 1 EPC Agreement in accordance with the foregoing which adjusts the Common Development Work Compensation shall have such adjustment split equally between Owner and FLIQ1, and the Contract Price and Common Contract Price Component hereunder shall be adjusted accordingly in such Change Order to account for such change in the Common Development Work Compensation; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) pursuant to Section 6.14, then the adjustment to the Common Development Work Compensation shall be fully borne by Owner under this Agreement (and the Common Contract Price Component shall be adjusted accordingly). Further, unless Owner and FLIQ1 agree otherwise in writing, any unilateral Change Order executed in accordance with the foregoing which relates to, impacts or modifies the Common Development Work shall have the cost of such unilateral Change Order split equally between Owner under this Agreement and FLIQ1 under the Train 1 EPC Agreement; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) pursuant to Section 6.14, then Owner shall be fully responsible for the costs of such unilateral Change Order.

6.14 **Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement**. In the event Contractor, pursuant to Section 16.4 of the Train 1 EPC Agreement, submits a written notice to FLIQ1 for FLIQ1 to cure its failure to pay undisputed amounts due and owing under the Train 1 EPC Agreement, Contractor shall, simultaneously with its submission of the foregoing notice to FLIQ1, notify Owner in writing of the FLIQ1 notice. In addition, in the event Contractor receives a notice of termination from FLIQ1 of the Train 1 EPC Agreement (or termination of any Common Development Work thereunder) pursuant to Section 16.2 of the Train 1 EPC Agreement, or the Train 1 EPC Agreement is otherwise terminated by notice pursuant to its terms, Contractor shall, within five (5) Business Days, notify Owner in writing of such termination notice. Upon Owner's receipt of any of the foregoing written notices from Contractor, Owner shall have one hundred twenty (120) Days (or such other period of time as the Parties may agree upon in writing) to inform Contractor in writing whether Owner desires to assume the payment obligations, otherwise payable by FLIQ1 (assuming no termination of the Train 1 EPC Agreement), which are necessary to have the Common Development Work (that was being compensated under the Train 1 EPC Agreement) continue to be performed by Contractor; *provided that*, during such time period prior to Owner's response, Contractor shall have the right to suspend the Common Development Work to the extent allowed under the Train 1 EPC Agreement. In the event Owner elects to assume FLIQ1's payment obligations for the Common Development Work under this Agreement, Owner shall notify Contractor of such election in writing and submit with (or promptly after) such notice a request for a Change Order in accordance with Section 6.1 identifying what portion of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) that Owner desires Contractor to continue to perform under this Agreement, less any other portions of the Common Development Work Owner desires that Contractor not continue to perform. Thereafter, Owner and Contractor shall proceed in accordance with Section 6.1 with a view towards executing a mutual Change Order that establishes an adjustment to the Train 2 Project Schedule and Common Contract Price Component reflective of the scope of the Common Development Work that Owner desires Contractor to complete under this Agreement; *provided that*, in the essence of time (and to mitigate or avoid additional costs or delays associated with a suspension in the Common Development Work), Owner may issue a unilateral Change Order to Contractor so that the Common Development Work (that was being compensated under the Train 1 EPC Agreement) may continue without any suspension or so that any then-suspended Common Development Work resumes. If Contractor has not suspended the performance of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) in accordance with the Train 1 EPC Agreement and Owner elects to have any such Common Development Work performed under this Agreement pursuant to this Section 6.14, then Contractor shall not be entitled to any adjustment to the Train 2 Project Schedule. If Contractor has suspended the performance of the Common Development Work in accordance with the Train 1 EPC Agreement and Owner elects to have the Common Development Work (that was being compensated under the Train 1 EPC Agreement) performed under this Agreement pursuant to this Section 6.14, then (in addition to any adjustment to the Common Contract Price Component as a result of having such Common Development Work continue to be performed under this Agreement) Contractor shall be entitled to an adjustment to the Train 2 Project Schedule and Common Contract Price Component to the extent allowed under Section 6.9 herein as a result of such suspension of such Common Development Work. For purposes of clarity, the Parties acknowledge that if Owner does not desire to reduce the scope of the Common Development Work, then the adjustment to the

Common Contract Price Component under the Change Order shall not exceed FLIQ1's unpaid share of the Common Development Work Compensation (except to the extent the Common Contract Price Component may be adjusted as a result of an adjustment to the Train 2 Project Schedule pursuant to the foregoing sentence). In the event that Owner elects to reduce the scope of the Common Development Work, Contractor shall use its best efforts to assist Owner in evaluating the effects of such reduced scope on the costs to perform the Work (including with respect to any change in quantities of materials or Equipment and the amount of labor, engineering or field in-directs) as well as the Baseline CPM Schedule, so that Owner can minimize the cost impact in assuming FLIQ1's payment obligations of performing the Common Development Work and shorten the Train 2 Project Schedule to reflect the decreased scope of the Common Development Work.

A. ***Elimination of Expansion Facility Dock from Common Development Work***. The Parties acknowledge that, in the event Owner desires to have the Common Development Work (that was being compensated under the Train 1 EPC Agreement) executed under this Agreement pursuant to Section 6.14, Owner, in its sole discretion, may wish to remove the Expansion Facility Dock from the scope of the Common Development Work (as part of its right to modify the scope of the Common Development Work pursuant to Section 6.14). In the event Owner so desires to remove the Expansion Facility Dock from the scope of the Common Development Work, the Parties acknowledge that the reduction in the Common Development Work Compensation for the removal of such scope will be determined by subtracting (i) the reasonable value of the Work performed for the Expansion Facility Dock (under both this Agreement and the Train 1 EPC Agreement, using the terms of this Agreement and the Train 1 EPC Agreement as the basis for such valuation) from (ii) the Expansion Facility Dock Price, and then reducing the Common Development Work Compensation by such difference. This reduced Common Development Work Compensation shall then be used as part of the basis to determine the adjustment to the Common Contract Price Component pursuant to Section 6.14.

B. ***Other Amendments To Address Termination of Train 1 EPC Agreement***. In the event that the Parties intend to enter into a Change Order under this Section 6.14 as a result of the termination of the Train 1 EPC Agreement, the Parties acknowledge that such Change Order will include appropriate modifications to this Agreement in instances where requirements, obligations or events herein are conditioned upon events occurring under the Train 1 EPC Agreement, such as, for example, the achievement of substantial completion (and the commencement of the Defect Correction Period) for Common Systems that were otherwise anticipated to achieve substantial completion under the Train 1 EPC Agreement, the transfer of Site security responsibilities for the Train 1 Expansion pursuant to Section 3.10 or the transfer of supervision from Contractor to Owner (or Owner's Affiliate) of certain operations and maintenance personnel at substantial completion of the Train 1 Expansion.

6.15 **Adjustment to Schedule Bonus Date**. If the commencement, prosecution or completion of the Work is delayed by a Qualified Force Majeure Event, then Contractor shall be entitled to an adjustment to the Schedule Bonus Date for each Day of a Qualified Force Majeure Event; *provided that* the Schedule Bonus Date may not be adjusted under this Agreement more

than thirty (30) Days in the aggregate. Any adjustment to the Schedule Bonus Date shall be recorded in a Change Order. Notwithstanding anything to the contrary in this Agreement, Contractor shall not be entitled to an adjustment to the Schedule Bonus Date for any other reason or cause whatsoever, including for Owner-caused delay.

ARTICLE 7
CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

7.1 **Contract Price**. Subject to the allocation of compensation for the Common Development Work as set forth in Section 7.2A, as compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement, Owner shall pay and Contractor shall accept Two Billion Five Hundred Eighty Five Million Eighty Nine Thousand Seven Hundred Forty-Two U.S. Dollars (U.S.$2,585,089,742) (the "***Contract Price***"). The Contract Price is subject to adjustment only by Change Order as provided in Article 6, and includes all Taxes, the Provisional Sums, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Contract Price does not include Texas state and applicable local sales and use taxes on Tax Exempt Equipment (which is subject to exemption as provided under Section 4.5A) and Taxable Equipment. The Contract Price is separated, in accordance with the definition of separated contract as defined in 34 Tex. Admin Code Rule § 3.291(a)(13), as follows:

A. Seven Hundred Thirty Nine Million Thirteen Thousand Five Hundred Fifty-Four U.S. Dollars (US$739,013,554) ("***Tax Exempt Equipment Price***") for Tax Exempt Equipment (subject to the allocation of compensation as set forth in Section 7.2A for the Tax Exempt Equipment included as part of the Common Development Work). Such Tax Exempt Equipment is listed in Attachment FF (which may be changed by Change Order in accordance with Section 4.5A.2). The Tax Exempt Equipment Price includes the cost of Tax Exempt Equipment, including markup, overhead, profit and freight, but excluding labor.

B. Three Hundred Ninety Four Million Four Hundred Eighty Five Thousand Three Hundred Ninety-Seven U.S. Dollars (US$394,485,397) (*"**Taxable Equipment Price**")* for all Equipment (including materials) to be permanently installed in the Train 2 Project (other than Tax Exempt Equipment) ("***Taxable Equipment***"), subject to the allocation of compensation as set forth in Section 7.2A for Taxable Equipment included as part of the Common Development Work. The Taxable Equipment Price includes the cost of Equipment (including markup, overhead, profit, and freight if the Vendor provides the freight, but excluding labor). Such Taxable Equipment is listed in Attachment FF.

C. One Billion Four Hundred Fifty One Million Five Hundred Ninety Thousand Seven Hundred Ninety U.S. Dollars (US$1,451,590,790) ("***Labor and Skills Price***") for all Work in this Agreement other than for Tax Exempt Equipment and Taxable Equipment (subject to the allocation of compensation as set forth in Section 7.2A for any portion of such Work that is included as part of the Common Development Work), which such Work includes all labor, engineering, design, services not subject to Texas state and applicable local sales and use taxes, installation, consumables, construction tools, freight, equipment rentals, overhead and all other items of whatever nature applicable to the

Work. Excluding only the Tax Exempt Equipment Price and the Taxable Equipment Price, the Labor and Skills Price shall include all costs, charges and expenses of whatever nature applicable to the Work, including Taxes on all Work and Texas state and applicable local sales and use taxes on all Work other than on Tax Exempt Equipment and Taxable Equipment.

The Contract Price also includes Ninety Four Million Six Hundred Forty Two Thousand Four Hundred Sixty-Six U.S. Dollars (US$94,642,466) ("***Aggregate Provisional Sum***") for Provisional Sum Scope Items as further identified in Attachment DD. The Aggregate Provisional Sum is the aggregate of the Provisional Sums for each Provisional Sum Scope Item, as shown in Attachment DD. As shown in Attachment DD, each Provisional Sum for a Provisional Sum Scope Item is separated into (i) a price for Tax Exempt Equipment (ii) a price for Taxable Equipment, and (iii) a price for all other Work that is not included in the pricing for Tax Exempt Equipment or Taxable Equipment. (For the avoidance of doubt, those price separations identified in Attachment DD for the Provisional Sum Scope Items are incorporated into the separated price components identified in Sections 7.1A, B and C above.) In addition, each Provisional Sum for a Provisional Sum Scope Item is also itemized between Train 2-Specific Work and Common Development Work. The Contract Price will be subject to adjustment by Change Order with respect to the Aggregate Provisional Sum as set forth in Attachment DD. Such Change Order will also adjust the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 2-Specific Contract Price Component, Common Contract Price Component and Common Development Work Compensation as appropriate.

7.2 **Contract Price Components.**

A. ***Common Contract Price Component***. The Parties acknowledge that the Train 1 Expansion is being developed by Contractor under the Train 1 EPC Agreement concurrently with the development of the Train 2 Expansion. As a result of this, the Common Development Work, which is a scope of the Work hereunder that is also required as part of the work under the Train 1 EPC Agreement, is being jointly funded by Owner (under this Agreement) and FLIQ1 (under the Train 1 EPC Agreement). The Parties agree that the compensation paid to Contractor for the performance of the Common Development Work is being split equally among Owner and FLIQ1 and that any adjustments to such compensation shall also be shared equally by Owner and FLIQ1 unless otherwise agreed by Owner and FLIQ1. The total compensation to be paid to Contractor for the Common Development Work is Two Billion Two Hundred Sixty One Million One Hundred Sixteen Thousand Seventy U.S. Dollars (U.S.$2,261,116,070) (the "***Common Development Work Compensation***"). The portion of the Contract Price allocated to Owner under this Agreement for such Common Development Work shall be one-half of the Common Development Work Compensation or One Billion One Hundred Thirty Million Five Hundred Fifty Eight Thousand Thirty-Five U.S. Dollars (U.S.$1,130,558,035) (the "***Common Contract Price Component***"), and Owner, subject to Section 6.14, shall only be obligated to pay Contractor for the Common Contract Price Component under this Agreement for the full performance of the Common Development Work (notwithstanding that the full scope of the Common Development Work is set forth in this Agreement). In accordance with Section 6.13 (and subject to the exceptions set forth therein), the Common Development Work Compensation shall only be adjusted by

written agreement of Contractor, Owner and FLIQ1 (which such written agreement can be memorialized via a Change Order under this Agreement executed by Owner and Contractor and a corresponding change order under the Train 1 EPC Agreement executed by FLIQ1 and Contractor). The Common Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Common Development Work).

B. ***Train 2-Specific Contract Price Component***. The portion of the Contract Price allocated to the Train 2-Specific Work is One Billion Four Hundred Fifty Four Million Five Hundred Thirty One Thousand Seven Hundred Six U.S. Dollars (U.S.$1,454,531,706) (the "***Train 2-Specific Contract Price Component***"). The Train 2-Specific Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Train 2-Specific Work).

7.3 **Interim Payments**.

A. ***Payments***. Progress payments shall be made by Owner to Contractor in accordance with the Payment Milestone Schedule (as may be amended by Change Order pursuant to Section 6.1B or 6.2C) set forth in Schedule C-1, which allocates the payment of the Contract Price upon completion of Payment Milestones as set forth in Schedule C-1, *provided that* Contractor is otherwise in material compliance with the terms of this Agreement. Owner shall also make payments to Contractor for any unilateral Change Orders issued in accordance with Section 6.1C or 6.2D. Each payment shall be subject to Owner's right to withhold payments under this Agreement, including Section 5.4F, 7.6 and 13.2. Payments shall be made in U.S. Dollars to an account designated by Contractor. The Payment Milestone Schedule shall be amended only by Change Order pursuant to this Agreement.

B. ***Invoices for Train 2-Specific Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner an Invoice for all Train 2-Specific Work Payment Milestones completed during the prior Month, if any. The Train 2-Specific Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Train 2-Specific Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Train 2-Specific Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Train 2-Specific Work Payment Milestones and Train 2-Specific Work unilateral Change Order charges, other than the Invoice for final payment of Train 2-Specific Work under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Train 2-Specific Work unilateral Change Orders issued

pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Train 2-Specific Work.

C. ***Invoices for Common Development Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner and FLIQ1 an Invoice for all Common Development Work Payment Milestones completed during the prior Month, if any. The Common Development Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Common Development Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Common Development Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Common Development Work Payment Milestones and Common Development Work unilateral Change Order charges, other than the Invoice for final payment of Common Development Work under this Agreement, shall be in the form of Schedule I-2, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Common Development Work unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner and FLIQ1 hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Common Development Work. For the avoidance of doubt, and notwithstanding anything to the contrary herein, Owner and Contractor agree and acknowledge that, notwithstanding that the Common Development Work will be jointly invoiced to Owner and FLIQ1, (i) Owner shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as set forth herein, (ii) FLIQ1 shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as defined in the Train 1 EPC Agreement, and (iii) Owner shall not be responsible for paying for FLIQ1's portion of the Common Development Work Compensation except as provided for in Section 6.14. FLIQ1 shall not have any obligations to pay any amounts under this Agreement.

D. ***Interim Lien and Claim Waivers***. Each set of Monthly Invoices received by Owner under this Agreement prior to Final Completion shall be accompanied by (i) fully executed Interim Lien and Claim Waivers from Contractor in the forms of Schedules K-1 and K-2 for all Work performed through the date for which payment is requested, (ii) fully executed Interim Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Interim Lien and Claim Waivers for all Major Sub-subcontractors requested in substantially the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested. Interim Lien and Claim Waivers, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Interim Lien and Claim Waivers only if they have performed Work not covered

by a previous Interim Lien and Claim Waiver. Submission of all Interim Lien and Claim Waivers is a condition precedent to payment of any Invoice.

E. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement, including Retainage as set forth in Section 7.13), subject to Owner's several liability with respect to Invoices for Common Development Work, shall be due and payable thirty (30) Days after it, and all documentation required under this Agreement, is received by Owner. If an Invoice is disputed by Owner, then payment shall be made for all undisputed amounts owed by Owner and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts shall be made as soon as such dispute is resolved.

F. ***Maximum Cumulative Payments***. The Parties have agreed upon and set forth in Schedule C-2 a schedule of the maximum cumulative amounts ("***Maximum Cumulative Payment Schedule***") that Contractor is allowed to invoice Owner at any one time during the Train 2 Project for the completion of the Work, regardless of whether Contractor has completed Work (via completion of Payment Milestones) that represents amounts greater than the Maximum Cumulative Payment Schedule. The Maximum Cumulative Payment Schedule sets the maximum cap on invoiced amounts, but does not set a minimum amount that Contractor may invoice Owner, as Sections 7.3A and 7.3B specify the procedure for determining the amount of each Invoice. The Maximum Cumulative Payment Schedule shall be adjusted only by Change Order executed by both Parties.

7.4 **Final Completion and Final Payment for Train 2-Specific Work and Common Development Work**. Upon Final Completion, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit fully executed final Invoices for the Train 2-Specific Work and Common Development Work in the forms attached hereto as Schedules I-3 and I-4, respectively, along with (i) a statement summarizing and reconciling all previous Train 2-Specific and Common Development Work Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Equipment, and any other indebtedness connected with the Work have been paid, including Texas state and applicable local sales and use taxes which Contractor is required under this Agreement to pay, (iii) fully executed Final Lien and Claim Waivers from Contractor in the forms of Schedules K-5 and K-6, (iv) fully executed Final Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-7 and K-8, (v) if requested by Owner, fully executed Final Lien and Claim Waivers from each Major Sub-subcontractor in substantially the forms set forth in Schedules K-7 and K-8, and (vi) to the extent not previously provided to Owner, Retainage Letters of Credit that, in the aggregate, equal the full amount of Retainage to be withheld by Owner under this Agreement. No later than thirty (30) Days after receipt by Owner of such final Invoices and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this

Agreement, pay Contractor the balance of the Contract Price (including the Retainage, if Retainage Letters of Credit in the full amount of Retainage have been provided by Contractor).

7.5 **Payments Not Acceptance of Work**. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.6 **Payments Withheld**. In addition to disputed amounts set forth in an Invoice, Owner may, in addition to any other rights under this Agreement, at law or in equity and upon fifteen (15) Days prior written notice to Contractor, withhold payment on an Invoice or a portion thereof, or collect on the Letter of Credit, in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to:

A. Defective Work not remedied in accordance with this Agreement;

B. stop payment notices, liens or other encumbrances on all or a portion of the Site, the Work or the Facility, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, *provided that* Owner has made payment to Contractor of all undisputed amounts due to Contractor in accordance with the terms of this Agreement;

C. any breach by Contractor of any material provision of this Agreement;

D. the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards;

E. amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information;

F. Delay Liquidated Damages which Contractor owes under the terms of this Agreement;

G. failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts, excluding the right of Contractor to withhold payments to Subcontractors as provided under the terms of the applicable Subcontract;

H. damage or loss to the Existing Facility caused by Contractor or any of its Subcontractors or Sub-subcontractors, subject to the limitations of Contractor's liability for such damage or loss as set forth in Section 20.2; or

I. any other costs or liabilities which Owner has incurred for which Contractor is responsible, unless otherwise covered by insurance or bond in a form reasonably satisfactory to Owner, *provided that* Contractor is in compliance with its indemnity, hold harmless and defense obligations under this Agreement.

Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against

Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee or bond reasonably satisfactory to Owner in the amount of the withheld payment.

7.7 **Interest on Late Payments**. Any amounts due but not paid hereunder shall bear interest at the lesser of (i) an annual rate equal to the prime rate published by the Wall Street Journal plus two percent (2%), or (ii) the maximum rate permitted under Applicable Law.

7.8 **Work Breakdown Structure**. Within sixty (60) Days after the NTP, Contractor shall deliver to Owner for Owner's written approval a detailed breakdown of the Work by activity, with each such activity having a written description and hierarchal coding ("***Work Breakdown Structure***"). The Work Breakdown Structure shall be consistent with the Baseline CPM Schedule and the form of Work Breakdown Structure in Schedule C-3. After approval by Owner of such Work Breakdown Structure, Contractor shall have the right during the course of the Train 2 Project and upon Owner's written approval, to modify the Work Breakdown Structure, *provided that* at all times it remains consistent with the Baseline CPM Schedule. Contractor shall promptly provide Owner with copies of any revised Work Breakdown Structure.

7.9 **Payment Error**. If an error is made in connection with a payment, and such payment is an overpayment, the overpayment shall be reconciled with the next monthly Invoice, or if no further invoices are planned or the amount of such Invoices are not estimated to be of an amount to properly reconcile the error, then the Party receiving such payment in error shall promptly refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Owner under this Agreement, (i) if Owner discovers that a Payment Milestone was not in fact completed, or that Work associated with an Invoice contained Defective Work, then Owner may, at its sole discretion and upon prior written notice to Contractor, offset the amount of the payment against future payments or collect on the Letter of Credit in the amount of the payment until such Payment Milestone or correction of the Defective Work is achieved or (ii) if Owner discovers that any amounts paid by it to Contractor in a preceding Month was incorrect or lacked sufficient or accurate supporting information, then Owner may, at its sole discretion but only after giving prior written notice to Contractor, offset such amounts against future payments or collect on the Letter of Credit for such amounts until sufficient and accurate supporting information is provided pursuant to Section 7.3.

7.10 **Currency**.

A. Unless otherwise specified, all amounts contained herein are in and shall be paid in U.S. Dollars.

B. Foreign Exchange Parity.

As of the Effective Date, the Contract Price assumes the following foreign (non-U.S. Dollar) currency at the listed value and exchange rate to the U.S. Dollar:

FOREIGN CURRENCY	VALUE IN FOREIGN CURRENCY	EXCHANGE RATE
EURO	€ 100,950,865	1.301 USD TO EURO

On the date Owner issues NTP, the Contract Price shall be subject to an upward or downward adjustment by Change Order to account for currency fluctuations. This adjustment will be determined by multiplying (a) the difference of the exchange rate as quoted by the Wall Street Journal on the following website:

http://online.wsj.com/public/page/news-currency-currencies-trading.html

for the closing exchange rate on the date Owner issues NTP (the "***NTP Exchange Rate***") and the above listed exchange rate ("***Contract Exchange Rate***") by (b) the corresponding value in foreign currency listed above ("***Value of Foreign Currency***").

For clarity, the Contract Price adjustment shall be determined by the following formula:

$$Adjustment = [Value\ of\ Foreign\ Currency\ x\ [NTP\ Exchange\ Rate - Contract\ Exchange\ Rate]]$$

The Change Order implementing the foregoing adjustment shall also further itemize the adjustment, as applicable, into the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 2-Specific Contract Price Component, Common Contract Price Component and Common Development Work Compensation.

7.11 **Conditions Precedent to Payment**. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner, and is maintaining (i) the Parent Guarantee and the Letters of Credit in accordance with Section 21.16 and Article 9, and (ii) the insurance policies in accordance with Article 9.

7.12 **Payments to Subcontractors**. Contractor agrees and acknowledges that, if FLIQ1 withholds, offsets or otherwise does not make a payment to Contractor under the Train 1 EPC Agreement, Contractor shall not utilize payments made by Owner under this Agreement to compensate Subcontractors for work performed under the Train 1 EPC Agreement; *provided that* payments made under this Agreement to Contractor can be utilized to pay Subcontractors to the extent such payment arises from Owner's portion of the Common Development Work Compensation.

7.13 **Retainage and Retention Letter of Credit**.

A. ***Retainage***. Owner shall withhold from each Invoice submitted on or after NTP from Contractor an amount equal to two and one-half percent (2.5%) of the amount of each Train 2-Specific Invoice and one and one-quarter percent (1.25%) of the amount of each Common Development Work Invoice (collectively, the "***Retainage***"); *provided that*, if Owner takes over the full scope and payment of the Common Development Work in accordance with Section 6.14, Owner may withhold two-and-one-half percent (2.5%)

from each Common Development Work Invoice as part of the Retainage. For amounts paid by Owner to Contractor prior to NTP that are credited against the Contract Price, Retainage (in accordance with the ratios set forth above) for such amounts shall be withheld from the first payments made on or after NTP (in addition to any other Retainage allowed to be withheld from such first payments on or after NTP). Subject to Owner's rights under the Agreement, Retainage withheld from Invoice payments shall be released by Owner to Contractor as follows: (i) upon the first anniversary of Substantial Completion, Owner shall release a portion of the Retainage while continuing to withhold Retainage equal to the sum of (1) one and one-half percent (1.5%) of the original Contract Price plus (2) the estimated cost of correcting any outstanding Defects then-existing at such time; and (ii) upon the expiration of the Defect Correction Period, Owner shall release all remaining Retainage. Owner shall release Retainage based upon the foregoing sentence promptly after the passing of the event prompting such release but in any event within thirty (30) Days after such event and receipt from Contractor for an invoice for the release of such Retainage. Because Retention Letters of Credit may be substituted for Retainage as set forth in Sections 7.12B and 9.3, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in this Section A and reductions to the Retention Letters of Credit and releases of Retainage shall correspond in time, and in the amounts, as set forth above in this Section A.

B. ***Retention Letter of Credit as a Substitute for Retainage***. At their sole discretion, Contractor, CB&I or Zachry may elect to substitute a Retention Letter of Credit, pursuant to Section 9.3, in exchange for Owner releasing previously withheld Retainage, or for Owner to forego the withholding of Retainage from the payment of an Invoice, in the amount of such Retention Letter of Credit.

1. With respect to previously withheld Retainage, if Contractor, CB&I or Zachry make an election to provide Owner with a Retention Letter of Credit, Owner shall release previously withheld Retainage promptly to the applicable party in the amount of the Retention Letter of Credit provided, after receipt of such Retention Letter of Credit and an invoice for the Retainage release (but in any event within thirty (30) Days after receipt of such Retention Letter of Credit and invoice).

2. With respect to Retainage to be withheld from a prospective Invoice payment, if Contractor, CB&I or Zachry provide Owner with a Retention Letter of Credit seven (7) or more Days prior to the payment due date of such Invoice (and such Retention Letter of Credit has an effective date no later than Owner's Invoice payment due date), Owner, unless restricted from doing so by its financing documents with its Lenders, shall not withhold that portion of the Retainage (in the amount of such Retention Letter of Credit) from the Invoice payment. In the event Contractor, CB&I or Zachry provide a Retention Letter of Credit as set forth in the 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 7.13B (including any Retainage not withheld pursuant to Section 7.13B.2) shall not exceed the aggregate amount of Retention Letters of Credit which have been provided to Owner by Contractor, CB&I or Zachry.

7.14 ***Payments by FLIQ CF***. Notwithstanding anything to the contrary set forth herein and without limiting the generality of Section 8.1C, FLIQ CF has the right, but not the obligation, to pay to Contractor, and upon such payment Contractor shall accept, on behalf of Owner, all or any portion of the Contract Price as the same shall become due in accordance with this Agreement.

ARTICLE 8
TITLE AND RISK OF LOSS

8.1 **Title**.

A. ***Clear Title***. Subject to Contractor's receipt of payment of undisputed amounts when due under this Agreement, Contractor warrants and guarantees to Owner and FLIQ CF that Owner and FLIQ CF, as applicable, will receive good and legal title to and ownership of the Work and the Train 2 Expansion shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner and FLIQ CF, as applicable.

B. ***Title to Work***. Title to all or any portion of the Work (other than Work Product) shall pass to either Owner or FLIQ CF (as determined pursuant to Section 8.1C) upon the earlier of (i) payment therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Train 2 Expansion. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right of Owner under the Agreement.

C. ***Title Passage to FLIQ CF***. Title to the Train 2-Specific Work shall pass from Contractor to Owner in accordance with the timing set forth in Section 8.1B. Title to the Common Development Work shall pass from Contractor directly to FLIQ CF in accordance with the timing set forth in Section 8.1B. Notwithstanding passage of title in accordance with the foregoing, the Parties and FLIQ CF acknowledge that they will be signatories to an Equipment Sharing Agreement and that title to items of Equipment may pass among Owner, FLIQ CF and the other signatories to such Equipment Sharing Agreement in accordance with the terms therein. FLIQ CF shall be a signatory to this Agreement solely for purposes of taking title to the Common Development Work in accordance with this Section 8.1C and those other purposes expressly stated in the signature block for FLIQ CF included in this Agreement and shall not assume any other obligations under this Agreement to Contractor (including any obligation to pay any portion of the Contract Price, notwithstanding its right to make payments under Section 7.14) as a result of its execution of the Agreement and receipt of title of the Work, and Contractor waives any right to seek any compensation from FLIQ CF with respect to the Work or otherwise under this Agreement, at law or in equity.

8.2 **Risk of Loss**.

A. ***Prior to Substantial Completion***. Notwithstanding passage of title as provided in Section 8.1 of this Agreement, and except as otherwise stated in Section 8.2A.1, Contractor shall bear the risk of physical loss and damage to the Train 2 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Expansion Facility) as follows: (i) with respect to the Train 2 Expansion (other than the Common Systems that achieve substantial completion under the Train 1 EPC Agreement), until Substantial Completion of the Train 2 Expansion is achieved under this Agreement and (ii) with respect to the Common Systems that achieve substantial completion under the Train 1 EPC Agreement, until substantial completion of such Common Systems under the Train 1 EPC Agreement; *provided that*, for purposes of clarity, if the Train 1 EPC Agreement is terminated in accordance with the rights set forth therein prior to the achievement of substantial completion under the Train 1 EPC Agreement, then Contractor shall bear the risk of loss of all Common Systems (including those Common Systems that Contractor was to bear the risk of loss of only until achievement of such substantial completion under the Train 1 EPC Agreement) until Substantial Completion is achieved under this Agreement.

1. Notwithstanding Section 8.2A above, Contractor shall not be liable to Owner for any such physical loss or damage if and to the extent: (a) such physical loss or damage is not insured under the builder's risk policy or marine cargo insurance policy required to be provided by Owner under Sections 2.A.1 and 2.A.2 of Attachment O to this Agreement because of Owner's failure to maintain such policies in full force and effect at all times required under this Agreement, (b) Owner receives payment from the insurance company or companies under such policies for such physical loss or damage, (c) such physical loss or damage is not insured under the builder's risk policy because of an exclusion specified in such policy and Contractor is not otherwise liable to Owner pursuant to Section 8.2A.2, (d) the value of such physical loss or damage exceeds the named windstorm, flood or earthquake sublimit(s) as a result of damage or loss caused by a named windstorm, flood or earthquake event, (e) the value of such physical loss or damage exceeds the monetary policy limits (including any sublimits or aggregate limits) of the builder's risk policy or (f) the physical loss or damage is caused by (1) ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste, (2) nuclear weapons material, (3) war, invasion, act of foreign enemy hostilities or warlike operations, civil war, rebellion, revolution or insurrection, (4) act of any person in connection with activities directed towards the overthrow by force of the government, (5) permanent or temporary dispossession resulting from confiscation, nationalization, commandeering or requisition by any lawfully constituted authority or (6) an act of terrorism (as defined in the builder's risk policy); *provided, however*, with respect to deductibles under the builder's risks and marine cargo insurance, Contractor shall remain liable to the Owner for the policy deductibles, regardless of fault, but not to exceed One Million Dollars (U.S.$1,000,000) per occurrence for such deductibles as specified in Section 2.B of Attachment O; *provided further, however*, with

respect to the foregoing proviso, if Contractor is also liable to FLIQ1 for the builder's risks or marine cargo insurance policy deductibles under Section 8.2A.1 of the Train 1 EPC Agreement for the same occurrence, then Contractor's total liability, in the aggregate, for such deductibles under this Agreement and the Train 1 EPC Agreement shall not exceed One Million Dollars (U.S.$1,000,000) per occurrence, with such liability being credited equally between Owner and FLIQ1 (unless Owner and FLIQ1 agree otherwise in writing). This Section 8.2A.1 shall not be interpreted to relieve Contractor of any of its other obligations or liabilities under the Agreement, including its obligations with respect to Defective Work and Corrective Work.

2. To the extent of Contractor's, Subcontractor's or Sub-subcontractor's fault, Contractor shall be liable to Owner for physical loss or damage that is not covered by the builder's risk policy to be procured by Owner under this Agreement because of any of the following exclusions to such builder's risk policy: aircraft, watercraft or vehicle, cash and money, wear, tear, erosion and corrosion, inventory and stocktaking, defects in design, plan, specification, material or workmanship, penalties and consequential loss, pollution and contamination arising out of a covered perils, contractor's plant and equipment, transmission and distribution lines, wet works, hydrocarbons, piling, electronic data, asbestos or toxic mold. Notwithstanding anything to the contrary herein, the Parties agree and acknowledge that, in the event that an insurance claim for physical loss or damage to the Train 2 Expansion is denied by the builder's risk policy insurer as a result of an exclusion listed in this Section 8.2A.2, Owner shall have the right to elect, at its own discretion, whether to dispute any such denial of the claim; *provided, however*, in the event of Owner's election to not dispute such denial of the insurance claim, such election shall not prejudice Contractor's right to dispute same with the insurer as an additional insured under the builder's risk policy or any argument by Contractor that such exclusion was not applicable in any Dispute with Owner arising out of a claim by Owner against Contractor that Contractor is liable to Owner for the physical loss or damage pursuant to this Section 8.2A.2.

3. With respect to any physical loss or damage to the Train 2 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Train 2 Expansion), Contractor shall be entitled to a Change Order adjusting the Guaranteed Substantial Completion Date and Required Final Completion Date if and to the extent permitted under Section 6.8A.

4. To the extent Contractor does not bear the risk of physical loss or damage as described in Section 8.2A, then with respect to such physical loss or damage to the Train 2 Expansion, Contractor shall be entitled to a Change Order adjusting the Contract Price for: (i) the cost to repair, reconstruct or replace the damaged Train 2 Expansion (which such adjustment shall account for updated progress payments to Contractor to maintain cash flows consistent

with the payment philosophies underlying the original progress payment terms and Maximum Cumulative Payment Schedule); (ii) the cost of debris removal, and (iii) to the extent recovered by Owner under insurance provided by Owner under Section 2.A.1 of Attachment O or to the extent otherwise directed by Owner in writing, the cost to accelerate or expedite such repair, reconstruction or replacement and stand-by costs, if any.

B. ***After Substantial Completion***. As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train 2 Expansion and each component thereof (other than Common Systems that achieve substantial completion under the Train 1 EPC Agreement) after Substantial Completion of the Train 2 Expansion is achieved. For Common Systems that achieve substantial completion under the Train 1 EPC Agreement, the risk of physical loss and damage to such Common Systems shall pass from Contractor to FLIQ1 in accordance with the Train 1 EPC Agreement; *provided that*, if the Train 1 EPC Agreement is terminated prior to the transfer of risk of physical loss and damage of those Common Systems that were to achieve substantial completion under the Train 1 EPC Agreement, then, as between Owner and Contractor, the risk of physical loss and damage to such Common Systems shall be borne by Owner after achievement of Substantial Completion under this Agreement. 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.

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.

B. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage.

C. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

D. ***Unavailable Insurance***. If any insurance (including the limits, coverage, endorsements, policy terms, conditions or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Owner and Contractor shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two (2) independent advisors, including insurance brokers, of recognized international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the required amount or coverage is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party; and *provided further* that such waiver is permitted pursuant to any agreements between Owner and its Lenders. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

9.2 **Irrevocable Standby Letter of Credit**. Owner shall provide Contractor with at least five (5) Business Days prior written notice of Owner's intent to issue NTP. Prior to Owner's issuance of NTP (or, if Owner has not provided at least 5 Business Days prior written notice of its issuance of NTP in accordance with the foregoing sentence, then within 5 Business Days after receipt of such notice), and as a condition precedent to Contractor's right to receive any payments under this Agreement, except payments expressly permitted pursuant to an LNTP, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of One Hundred and Twenty-Two Million Five Hundred Thousand U.S. Dollars (U.S.$122,500,000), and in the form of Schedule R-1, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a long-term local currency issuer credit rating of at least A- by Standard & Poor's and a long-term credit rating of at least A3 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, and at Owner's written request, Contractor shall replace the Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-1 specifying the general nature of such Default or breach or Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the

Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Letter of Credit that it has decided not to extend the Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a commercial bank meeting the requirements in this Section 9.2. Upon the achievement of Substantial Completion of the Train 2 Expansion, and Owner's acceptance and execution of the Substantial Completion Certificate in accordance with this Agreement, Owner shall return the original Letter of Credit, and any Letter of Credit amendments that have been issued, to the commercial bank that issued the Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-1 stating the Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Letter of Credit shall occur no later than five (5) Business Days after Owner's acceptance of Substantial Completion of the Train 2 Expansion. The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the Substantial Completion of the Train 2 Expansion. Partial drawings are permitted under the Letter of Credit. In addition, the Parties acknowledge that Contractor may fulfill the Letter of Credit requirements set forth in this Section 9.2 through multiple, coexistent Letters of Credit issued to Owner with the applicants of those Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Letters of Credit, in the aggregate, equal the dollar values required herein.

9.3 **Retention Letter of Credit**. Owner may withhold Retainage as provided under Section 7.13. As a condition precedent to Contractor's right to receive Retainage withheld by Owner, Contractor, in its sole discretion at any time during the course of the Train 2 Project, may deliver to Owner a retention letter of credit, naming Owner as beneficiary, in an amount not to exceed the cumulative amount withheld by Owner under Section 7.13A, in the form of Schedule R-2, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the retention letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Retention Letter of Credit***"). If at any time the rating of the commercial bank that issued the Retention Letter of Credit falls below either of the Investment Grade ratings, and at Owner's written request, Contractor shall replace the Retention Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the Retention Letter of Credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Retention Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-2 specifying the general nature of such Default or breach, Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Retention Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such

fourteen (14) Day period. The amount drawn on the Retention Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Retention Letter of Credit that it has decided not to extend the Retention Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Retention Letter of Credit for all remaining funds in the Retention Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Retention Letter of Credit and from a commercial bank meeting the requirements in this Section 9.3. Partial drawings are permitted under the Retention Letter of Credit. The Retention Letter of Credit shall remain in full force and effect from the issuance of the Retention Letter of Credit through the expiration of the Defect Correction Period under this Agreement. After expiration of the Defect Correction Period, Owner shall return the original Retention Letter of Credit, and any Retention Letter of Credit amendments that have been issued, to the commercial bank that issued the Retention Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-2 stating the Retention Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Retention Letter of Credit shall occur no later than five (5) Business Days after expiration of the Defect Correction Period. The amount of the Retention Letter of Credit shall be reduced on the same basis that Retainage is released pursuant to Section 7.13A. No later than five (5) Business Days after the passage of an event prompting a release of Retainage as set forth in Section 7.13A, Owner shall provide the commercial bank that issued the Retention Letter of Credit with written notice of such event in the form of Annex VI of Schedule R-2 stating that such event has occurred. For purposes of clarity, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in Section 7.13A. In addition, the Parties acknowledge that Contractor may fulfill the Retention Letter of Credit requirements set forth in this Section 9.3 through multiple, coexistent Retention Letters of Credit issued to Owner with the applicants of those Retention Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Retention Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Retention Letters of Credit, in the aggregate, equal the dollar values required herein (including any reductions in value as set forth herein).

9.4 **Financial Statements**. As soon as available, but in any event within sixty (60) Days after the end of each fiscal quarter of Zachry Guarantor and CB&I Guarantor, Contractor shall deliver to Owner the unaudited and consolidated balance sheet of Zachry Guarantor and CB&I Guarantor as of the end of such quarter, the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of each of Zachry Guarantor and CB&I Guarantor, subject to normal year-end audit adjustments. As soon as available, but in any event not later than one-hundred twenty (120) Days after the end of each fiscal year of Zachry Guarantor and CB&I Guarantor, Zachry Guarantor and CB&I Guarantor shall deliver to Owner a copy of the audited consolidated balance sheets at the end of each such year as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 9.4 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

ARTICLE 10
OWNERSHIP OF DOCUMENTATION

10.1 **Ownership of Work Product**.

A. Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Train 2 Expansion done by Contractor for Owner (including any work done by Contractor or any of its Affiliates under the FEED Agreement or any other agreements between the Parties related to the Train 2 Project), Contractor or its Affiliates, Subcontractors or Sub-subcontractors will create or have created for this Train 2 Project certain plans, operating and maintenance procedures and manuals, Drawings, Specifications, calculations, or other technical tangible manifestations of Contractor's efforts (whether written or electronic) (hereinafter individually or collectively referred to as "***Work Product***"). Subject to Sections 10.1A.1 and 10.1A.2 below, Work Product prepared by Contractor or its Affiliates, Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Contractor, its Affiliates, Subcontractors, Sub-subcontractors or any other Person. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees that such ownership and copyrights in the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

1. If Contractor, using commercially reasonable efforts, is unable to procure ownership of the Work Product for Owner as set forth in Section 10.1A above from any Subcontractor and Sub-subcontractor, then, at a minimum, Contractor shall procure for Owner and its Affiliates from such Subcontractors and Sub-subcontractors an irrevocable, perpetual and royalty-free license (including with right to assign its right without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in the Facility) to use, disclose, modify and copy such Work Product for any purpose relating to the Expansion Facility.

2. For the avoidance of doubt, Contractor shall not be required to obtain rights to Work Product as set forth in Section 10.1A above from Subcontractors and Sub-subcontractors providing bulk commodities or generic "off-the-shelf" Equipment.

3. The Parties acknowledge that, with respect to Work Product relating to the Common Development Work, the rights, title and interest to such Work Product (or licenses, to the extent provided for in Section 10.1A.1) shall also

vest in FLIQ1 and its affiliates in accordance with the Train 1 EPC Agreement as well as FLIQ CF.

B. Notwithstanding Section 10.1A, as among Owner, Zachry, CB&I and Contractor, Zachry and CB&I shall retain ownership of all proprietary intellectual property rights owned by Zachry or CB&I and developed by Zachry or CB&I outside this Agreement, the FEED Agreement or any other agreements between the Parties (or their Affiliates) related to the Expansion Facility (hereinafter referred to as "***Contractor's Intellectual Property***"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in this Section 10.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary intellectual property owned and developed by Contractor's Equipment Subcontractors or Equipment Sub-subcontractors for any project other than the Expansion Facility ("***Third Party Proprietary Work Product***"). With respect to such Contractor's Intellectual Property and Third Party Proprietary Work Product relating to the Work or the Expansion Facility, Contractor hereby grants Owner and its Affiliates an irrevocable, perpetual and royalty-free license (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use, disclose, modify and copy such Contractor's Intellectual Property and Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided, however*, if Owner uses Third Party Proprietary Work Product or Contractor Intellectual Property for purposes other than those relating to the Expansion Facility, and Owner does not procure the necessary ownership, license or rights for such use, Owner shall indemnify, defend and hold harmless the Contractor Indemnified Parties with respect to any claims, damages, losses, liabilities or other causes of action arising from such use. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 10.1 except as provided in Section 10.1A.2 above.

10.2 **Return/Delivery of Certain Property**. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Train 2 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product and (ii) Contractor's Equipment Subcontractors and Equipment Sub-subcontractors may retain any Work Product generated by them so long as Owner has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets (native and .pdf files) of documents on CD-ROM for those Drawings and Specifications generated using CAD or other digital means.

10.3 **Contractor's License in Work Product**. Owner and FLIQ CF hereby, on behalf of themselves and their Affiliates, grant to Contractor an irrevocable, perpetual and royalty-free license to use, modify and copy the Work Product for any other project, except for any of the following which may be in such Work Product: (i) any proprietary intellectual property rights owned by Owner or any Affiliate of Owner; (ii) any proprietary intellectual property rights in which Owner or an Affiliate of Owner has a license; or (iii) any proprietary intellectual property rights developed during the performance of this Agreement, the FEED Agreement or any other agreement between the Parties relating to the Expansion Facility, which was derived in whole or part by participation of Owner or any Owner Affiliate. As a condition of using on another project

any Work Product which Contractor has a license under this Section 10.3, Contractor shall remove from the Work Product any reference to the Expansion Facility, Owner or FLIQ CF. The foregoing license and rights to use any Work Product granted to Contractor shall be subject to any limitations imposed on Contractor by third parties which have any ownership interest in such Work Product or any proprietary intellectual property embedded therein, and Contractor shall indemnify, defend and hold the Owner Indemnified Parties harmless with respect to any claims, damages, losses, liabilities or other causes of action which relate to Contractor's use of any Work Product for any purposes other than for the Expansion Facility.

10.4 **Owner Provided Documents**. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor 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 Owner upon the earlier of Substantial Completion of the Train 2 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media and (ii) if this Agreement is terminated prior to achievement of Substantial Completion, such documents may continue to be utilized for purposes of the Train 1 EPC Agreement and returned to Owner upon the earlier of substantial completion under the Train 1 EPC Agreement or termination of the Train 1 EPC Agreement.

ARTICLE 11
COMPLETION MILESTONES

11.1 **Notice and Requirements for RFSU and RLFC**.

A. ***Requirements of RFSU***. No later than eighteen (18) months after issuance of NTP, Contractor shall provide to Owner for its review and comment detailed RFSU requirements, in the form of checklists, for each Equipment system or subsystem in such designated portion of the Work. Once Contractor has incorporated all of Owner's comments and/or proposed revisions to the RFSU checklists, such RFSU checklists shall form a part of the requirements for achieving RFSU. Contractor shall comply with all requirements for RFSU set forth in this Agreement, including those requirements set forth in the definition of the term RFSU, Attachment A and Attachment V and the RFSU checklists agreed by Owner and Contractor pursuant to this Section. Upon RFSU of each system or subsystem of Equipment, Contractor shall certify to Owner in the form of Attachment L for RFSU of such system or subsystem ("***RFSU Certificate***") that all requirements under this Agreement for Ready For Start Up have occurred, including all of the requirements specified in the applicable RFSU checklist have been completed. The RFSU Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RFSU have been met.

B. ***Notice and Requirements of RLFC***. Without limitation of the foregoing or any other scheduling requirements contained in this Agreement, Contractor shall give Owner two hundred seventy (270) Days' prior written notice of a thirty (30) Day period in which it expects to achieve RLFC for the Train 2 Expansion (the "***First RLFC Window***

Period"). Ninety (90) Days after such initial notice, Contractor shall give Owner a second written notice specifying a twenty one (21) Day period in which it expects to achieve RLFC (the "***Second RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Second RLFC Window Period shall be the latest possible twenty one (21) Day period within the First RLFC Window Period. Sixty (60) Days after such second notice, Contractor shall give Owner a third written notice specifying a fourteen (14) Day period falling within the Second RLFC Window Period in which it expects to achieve RLFC (the "***Third RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Third RLFC Window Period shall be the latest possible fourteen (14) Day period within the Second RLFC Window Period. Sixty (60) Days after such third notice, Contractor shall give Owner a fourth written notice specifying a five (5) Day period falling within the Third RLFC Window Period in which it expects to achieve RLFC (the "***Fourth RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Fourth Window Period shall be the latest possible five (5) Day period within the Third RLFC Window Period. Owner shall be entitled to rely on such first, second, third and fourth notices in scheduling the LNG Tankers for the purpose of loading the first cargo of LNG for the Train 2 Expansion. In the event that Contractor at any time becomes aware or has reason to believe that its ability to achieve RLFC will be delayed beyond the applicable window period specified in the then current written notice given pursuant to this Section 11.1B, Contractor will immediately give Owner written notice of such fact and of the date on which Contractor then expects to achieve RLFC, but such notice shall not relieve Contractor of its responsibility to achieve RLFC within the then current window period. Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to achieve RLFC in accordance with this Section 11.1B. Contractor shall comply with all requirements for RLFC set forth in this Agreement, including those requirements set forth in the definition of the applicable RLFC and those set forth in Attachments A and V. To the extent not specified in Attachments A and V, the Parties shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon the requirements for achieving RLFC. At such time that the Train 2 Expansion has achieved RLFC, Contractor shall certify to Owner using the applicable RLFC Certificate that all requirements under this Agreement for RLFC have occurred. The RLFC Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RLFC have been met. Notwithstanding the foregoing and prior to the First RLFC Window Period, Contractor shall cooperate with Owner to propose an alternative notice and windowing procedure that is more cost efficient and economically feasible to Owner. If such alternative is accepted by Owner in its sole discretion, the foregoing notice and windowing procedure shall be modified by Change Order.

C. ***Notice Requirements for LNG Evacuation after RLFC***. The notice procedures set forth in this Section 11.1C shall be utilized by Contractor and Owner to set forth the time periods within which Owner shall evacuate certain amounts of LNG from the LNG storage tanks at the Facility after the first LNG Tanker is loaded and until Substantial Completion is achieved for the Train 2 Expansion. Subject to Owner's obligations under Section 4.8E, it shall be Owner's sole discretion as to the method

utilized by Owner to evacuate LNG from the LNG storage tanks within the time periods set by the procedure in this Section 11.1C. To the extent Owner fails to evacuate LNG in the amounts, and prior to the end of the firm 5-Day windows, set forth by this Section 11.1C, Owner shall have the obligations, and Contractor shall have the rights, set forth by Section 4.8D.

1. As part of Contractor's notice to Owner of the Fourth RLFC Window Period under Section 11.1B, Contractor shall provide Owner with an estimate, using GECP, of LNG volumes it expects to produce during commissioning and testing of the Train 2 Expansion up to Substantial Completion, including identifying estimated 5-Day windows within which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks in order to continue with its commissioning and testing activities. Thirty (30) Days after this written notice, Contractor shall provide Owner with another written notice updating any of the foregoing estimated LNG production volumes and 5-Day windowing periods and also identifying the first specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks (in addition to that amount of LNG that is to be evacuated by the RLFC LNG Tanker) or the result would be, in Contractor estimation (using GECP), a material interruption in Contractor's commissioning and testing activities. Upon commencement of loading of the RLFC LNG Tanker, Contractor shall give Owner another written notice updating the estimated LNG production volumes during commissioning and testing and the estimated 5-Day windowing periods and shall also identify the second specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks. Thereafter, Contractor shall provide Owner with additional written notices no less than once per Month updating the estimated LNG production volumes for commissioning and testing and the estimated 5-Day LNG evacuation windows. In these notices, or in separate written notices, Contractor shall specifically identify subsequent, firm 5-Day windows in which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks at the Facility, with such notice being provided at least thirty (30) Days in advance of the commencement of such window. If Contractor's commissioning and testing plans change after giving a specific, firm 5-Day window for LNG evacuation, Contractor shall notify Owner as promptly as possible giving the reason for the change, identifying the new 5-Day firm window and providing Contractor's estimate, using GECP, of the effects of any other estimated 5-Day windows. Owner shall use commercially reasonable efforts to provide LNG evacuation in the updated 5-Day window, but shall not be obligated to provide evacuation in accordance with the updated windowing schedule without receiving at least thirty (30) Days prior written notice. Any LNG evacuated by Owner either in amounts greater than 125,000 m^3 of LNG and/or earlier than an established firm 5-Day window shall be credited to Owner's LNG evacuation requirements of the next firm 5-Day window.

D. ***Delay in RLFC***.

1. If (i) RLFC occurs after the Fourth RLFC Window Period or (ii) the Train 2 Expansion, through no fault of Owner, is unable to load an LNG Tanker to demonstrate RLFC, then Contractor shall have the obligation to pay RLFC Delay Liquidated Damages as follows: One Hundred Thousand U.S. Dollars (U.S.$100,000) per Day for each Day, or portion thereof, until the commencement of LNG Tanker loading (the "***RLFC Delay Liquidated Damages***"), subject to an aggregate limitation on the assessment of RLFC Delay Liquidated Damages of One Million Five Hundred Thousand U.S. Dollars (U.S.$1,500,000).

2. If Owner does not deliver the LNG Tanker to load the first cargo within the applicable Fourth RLFC Window and Contractor is ready to receive such LNG Tanker, Contractor shall be entitled to a Change Order if and to the extent permitted under Section 6.8 or 6.9, as applicable.

11.2 **Notice and Requirements for Substantial Completion**. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of Substantial Completion herein and in Attachment A and Attachment S. To the extent Contractor has not already provided written notice under Section 11.1C, Contractor shall give Owner not less than ninety (90) Days' prior written notice of its intention to commence each Performance Test, and, on the thirtieth (30th) Day immediately prior to Contractor's intention to commence such testing activities, Contractor shall provide written notice to Owner. To the extent not specified in Attachment S, the Parties shall, no later than two hundred forty (240) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon final test procedures for the conduct of the Performance Tests. Contractor shall provide labor, equipment, supplies, and all other items necessary for the conduct of the Performance Tests; *provided, however*, that Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to conduct the Performance Tests. Contractor shall analyze the data obtained during all Performance Tests, and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to Owner at the completion of testing. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner using the Substantial Completion Certificate that all of the requirements under this Agreement for Substantial Completion have occurred and shall provide with such Substantial Completion Certificate a Performance Test report and analysis to Owner for the Performance Tests conducted for the Train 2 Expansion in order to achieve Substantial Completion. At a minimum, each Performance Test report shall include (i) the raw data, (ii) the instrumentation utilized for the applicable Performance Tests, (iii) the procedures utilized during the Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the Minimum Acceptance Criteria Testing Conditions, as and to the extent specified in Attachment S, and (v) any other supporting information used to demonstrate that the Work has met the Minimum Acceptance Criteria and, as applicable, other requirements of this Agreement for Substantial Completion. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

A. ***Handover of the Existing Facility Modifications***. The Parties agree and acknowledge that certain portions of the Train 2 Expansion and the Scope of Work will include modifications to the Existing Facility (as described further in Section 4.13 of Schedule A-1, the "***Existing Facility Modifications***"). The Existing Facility Modifications are subject to Section 8.2A of this Agreement and will be considered part of the Work and the Train 2 Expansion for purposes of this Agreement. Notwithstanding anything to the contrary in this Agreement (including the timing of transfer of risk of loss pursuant to Section 8.2), upon Handover of the Existing Facility Modifications, (i) the risk of loss shall transfer from Contractor to Owner for the Existing Facility Modifications, (ii) the Defect Correction Period will commence for the Existing Facility Modifications, (iii) Owner will take over care, custody and operational control of the Existing Facility Modifications and (iv) for purposes of Contractor's and Owner's rights and liabilities under Section 20.2 only, such Existing Facility Modifications will become part of the Existing Facility. "***Handover***" of any portion of the Existing Facility Modifications shall be established when Owner accepts, in writing, Contractor's written certification of the following: (1) that such portion of the Existing Facility Modifications (a) has been fabricated, installed, assembled, erected, and pre-commissioned in accordance with the requirements of the Agreement, (b) has been purged, cooled-down, commissioned and tested to the extent reasonably possible given the on-going operations of the Existing Facility, and (c) has been fully integrated into the Existing Facility and is capable of, and available for, full commercial operation in accordance with the requirements of this Agreement and (2) that Contractor has completed all necessary training, if any, of Owner's personnel with respect to such portion of the Existing Facility Modifications as required by Section 3.5 and Attachment V and Contractor has provided Owner with the necessary operating and maintenance manuals for such portion of the Existing Facility Modifications.

11.3 **Owner Acceptance of RLFC and Substantial Completion**. Owner shall notify Contractor whether it accepts or rejects the RLFC Certificate and Substantial Completion Certificate, as the case may be, within ten (10) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such RLFC Certificate and Substantial Completion Certificate shall be evidenced by Owner's signature on the RLFC Certificate or Substantial Completion Certificate, as applicable, which shall be forwarded to Contractor with such notice. If Owner does not agree that RLFC or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days after the delivery by Owner of its notice, Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall not relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

11.4 **Minimum Acceptance Criteria as a Condition of Substantial Completion**. As a condition of achieving Substantial Completion, Contractor shall achieve all Minimum Acceptance Criteria, as described in greater detail in this Section 11.4. The Performance Tests for determining whether the Work achieves Minimum Acceptance Criteria are described in Attachment S.

A. ***Minimum Acceptance Criteria Not Achieved***. In the event that the Work fails to achieve any of the Minimum Acceptance Criteria, as evidenced by the Performance Test results, by the Guaranteed Substantial Completion Date, as such date may be extended by Change Order as provided herein, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 13.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of six (6) months (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion for the Train 2 Expansion. If the Work has not achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor a second six (6) month Minimum Acceptance Criteria Correction Period under the same terms and conditions as the first, including the application of Section 13.2; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default at the end of either six (6) month period, Owner shall be entitled to the damages, costs, losses and expenses to which Owner is entitled under Section 16.1B. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, during the Minimum Acceptance Criteria Correction Period (or during the second six (6) month period, should Owner elect that option), then Contractor, subject to the limitations of liability set forth in Article 20, shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under this Agreement, including those under Section 13.2. During any Minimum Acceptance Criteria Correction Period, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under this Agreement, so long as such access does not unreasonably interfere with operation of the Work, the Existing Facility or the Train 1 Expansion (after substantial completion of the Train 1 Expansion) and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

B. ***MCHE Replacement Scenario***. Notwithstanding anything to the contrary in Section 11.4A, if (i) achievement of the LNG Production Rate MAC is the only condition remaining for the achievement of Substantial Completion, (ii) the Performance Test for the LNG Production Rate results in an LNG Production Rate of at least ninety-six percent (96%) (or greater) of the LNG Production Rate MAC and (iii) using GECP, Contractor determines that an underperforming MCHE is the sole Defect preventing achievement of the LNG Production Rate MAC and that such Defect is only capable of being corrected by replacing the Defective MCHE with a new MCHE (collectively, clauses (i) – (iii) being a "***MCHE Replacement Scenario***"), then this Section 11.4B shall set forth the rights and obligations of the Parties with respect to Contractor's obligation to achieve the Minimum Acceptance Criteria by replacing the MCHE. For purposes of

clarity, if any one of the above three (3) conditions is not met for the MCHE Replacement Scenario, or if Owner does not provide the MCHE Replacement Scenario Verification Notice (described below), the Parties' rights and obligations with respect to a failure to meet the Minimum Acceptance Criteria are as set forth in Section 11.4A.

1. If Contractor determines that a MCHE Replacement Scenario has occurred, it will provide written notice to Owner with sufficient evidence for Owner to objectively verify that a MCHE Replacement Scenario has occurred. Such written notice shall be accompanied by a Substantial Completion Certificate in the form of Attachment M, modified in a manner acceptable to Owner, identifying the occurrence of an MCHE Replacement Scenario but certifying that all other aspects of Substantial Completion have been achieved. Owner shall respond to Contractor's written notice within ten (10) Days after Owner's receipt of such notice being provided in accordance with this Section 11.4B.1, and Owner's response will either verify that a MCHE Replacement Scenario has occurred (the "***MCHE Replacement Scenario Verification Notice***") or provide an explanation, in reasonable detail, as to why the MCHE Replacement Scenario has not occurred. If Owner provides an MCHE Replacement Scenario Verification Notice to Contractor, Contractor shall promptly develop a plan for Owner's approval (not to be unreasonably withheld) for ordering and installing a new MCHE to replace the Defective MCHE on a timely basis.

2. If Owner provides the MCHE Replacement Scenario Verification Notice, Contractor shall install, commission and test the new MCHE, and Contractor shall cause the LNG Production Rate MAC to be achieved, within twenty-five (25) months after the earlier of (a) order placement of the replacement MCHE and (b) the Guaranteed Substantial Completion Date (such 25-month time period being the "***Replacement Timeline***"). To the extent that Substantial Completion Delay Liquidated Damages would be assessed against Contractor during the Replacement Timeline in accordance with Section 13.2A, such Substantial Completion Delay Liquidated Damages shall be temporarily suspended and, in lieu thereof, the MCHE Replacement Delay Liquidated Damages shall apply as follows:

(i) for an LNG Production Rate equal to ninety-six percent (96%) of the LNG Production Rate MAC, liquidated damages of Forty Thousand U.S. Dollars (U.S.$40,000) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(ii) for an LNG Production Rate equal to one hundred percent (100%) of the LNG Production Rate MAC, liquidated damages of Zero U.S. Dollars (U.S.$0) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2)

removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE); and

(iii) for an LNG Production Rate falling between 96% of the LNG Production Rate MAC and 100% of the LNG Production Rate MAC, liquidated damages shall be linearly proportional between the two points created by clauses (i) and (ii) above and such liquidated damages shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(collectively, the foregoing liquidated damages shall be considered the "***MCHE Replacement Delay Liquidated Damages***"). For purposes of clarity, the MCHE Replacement Delay Liquidated Damages are subject to the limitation on Contractor's liability for Delay Liquidated Damages set forth in Section 20.3.

3. If, during the Replacement Timeline, the LNG Production Rate increases from the rate determined by the LNG Production Rate Performance Test used to initially determine the MCHE Replacement Delay Liquidated Damages (as evidenced by a subsequent LNG Production Rate Performance Test or as mutually agreed by the Parties through actual measurements and/or calculations), the MCHE Replacement Delay Liquidated Damages shall be reduced in accordance with Section 11.4B.2 above.

4. MCHE Replacement Delay Liquidated Damages shall cease to be assessed against Contractor upon the earlier of (a) the end of the Replacement Timeline and (b) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE). If, at such time, Substantial Completion has not been achieved, and the Guaranteed Substantial Completion Date has passed, Substantial Completion Delay Liquidated Damages (as applicable) shall be assessed against Contractor in accordance with Section 13.2 until Substantial Completion is achieved.

5. During the Replacement Timeline, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under the Agreement and replace the Defective MCHE with the replacement MCHE, so long as such access does not unreasonably interfere with operation of the Work or the Existing Facility and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

6. If Owner verifies that a MCHE Replacement Scenario has occurred, Owner shall accompany its MCHE Replacement Scenario Verification Notice provided pursuant to Section 11.4B.1 with a written provisional acceptance of the Substantial Completion Certificate, modified in accordance with Section 11.4B.1 (such provisional acceptance being a "***Provisional Substantial Completion***"). Upon acceptance by Owner of Provisional Substantial Completion, (a) risk of loss shall transfer to Owner pursuant to Section 8.2B as if Substantial Completion had been achieved, (b) the Defect Correction Period, and Contractor's obligations to perform Corrective Work, shall commence as further described in the definition of "Defect Correction Period" and Article 12 and (c) Contractor's liability for damage or destruction of any Equipment of the Train 2 Expansion shall be set forth pursuant to Section 20.2 as if such Equipment had achieved Substantial Completion. In addition, upon providing Provisional Substantial Completion and notwithstanding Sections 11.8 and 11.9, Owner shall take over care, custody and control of the operations and maintenance of the Train 2 Expansion as if it had achieved Substantial Completion. Other than as set forth in this Section 11.4B.6, however, all of Contractor's and Owner's other rights and obligations under this Agreement shall remain in force as if Substantial Completion has not been achieved, including maintaining the amounts under the Letter of Credit as if the Train 2 Expansion had not yet achieved Substantial Completion. Further, the Defect Correction Period of any Work performed after Provisional Substantial Completion (including the replacement MCHE) shall commence upon achievement of Substantial Completion and shall continue for a period of eighteen (18) months after achievement of Substantial Completion (and the thirty (30) month period in Section 12.3B shall also run from Substantial Completion of the Train 2 Expansion).

7. Notwithstanding any acceptance by Owner of Provisional Substantial Completion in accordance with this Section 11.4B, in the event that the replacement MCHE fails to achieve the LNG Production Rate MAC, Owner shall have the rights, and Contractor shall have the obligations, set forth in Section 11.4A (except that in such case the Minimum Acceptance Correction Period(s) will have been deemed to have already expired).

11.5 **Punchlist**.

A. ***Punchlist for RFSU.*** Prior to RFSU for each system or subsystem of Equipment or the Work, Owner and Contractor shall inspect such Work, and Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve RFSU.

Upon Contractor's completion or correction of any items necessary to achieve RFSU and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for such system or subsystem of Equipment or the Work up to RLFC.

B. ***Punchlist for RLFC.*** After RFSU and prior to RLFC, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed updated, revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, revised Punchlist or otherwise that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that the Train 2 Expansion will achieve RLFC. Upon Contractor's completion or correction of any items necessary to achieve RLFC, and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items up to Substantial Completion.

C. ***Punchlist for Substantial Completion***. After RLFC and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist (as modified by any Owner additions), including agreement on the reasonable cost to perform such Punchlist Work, such Punchlist shall govern Contractor's performance of the Punchlist items up to Final Completion; *provided, however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of the Agreement. Provided Owner gives Contractor access to the Facility as set forth below, all Work on the Punchlist shall be completed no later than sixty (60) Days after achievement of Substantial Completion (or such longer period of time as the Parties may mutually agree in writing), or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work at the expense of Contractor. In the event Owner elects to complete such Punchlist Work, Contractor shall

immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs and expenses incurred in performing such Punchlist Work, not to exceed one hundred fifty percent (150%) of the agreed cost to perform such Punchlist Work. If Contractor performs any Punchlist Work, Owner shall provide Contractor with reasonable access to the Facility, and will de-energize and de-pressure the applicable Equipment sufficient for Contractor to perform its Punchlist activities, so long as such activities do not unreasonably interfere with the operation of the Facility and subject to any reasonable security and safety requirements of Owner.

11.6 **Notice and Requirements for Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within ten (10) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice. If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice (or within such additional time as mutually agreed to by the Parties in writing), Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18, subject to the Parties' rights and obligations under Section 11.5C.

11.7 **Partial Occupancy**. Prior to Contractor's achieving Substantial Completion, Owner, upon providing thirty (30) Days' written notice to Contractor specifying the occupation it intends to assume, may occupy all or any portion of the buildings for the Train 2 Expansion then capable of being safely occupied, *provided that*, such occupancy is authorized by the Governmental Instrumentality (to the extent such authorization is necessary) and Owner's insurance company or companies providing property insurance and builder's risk coverage have consented to such partial occupancy (to the extent such consent is necessary). Contractor shall assist Owner and take reasonable steps in obtaining consent of the insurance company or companies and applicable Government Instrumentalities. Immediately prior to such partial occupancy, Owner and Contractor shall jointly inspect the building to be occupied in order to determine and record the condition of the building and all personnel and environmental safety aspects of the building. Without limitation of the foregoing, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is occupying a building (or portion thereof). For any building (or portion thereof) that Owner occupies pursuant to this Section 11.7, the Defect Correction Period for that building (or portion thereof) shall commence upon Owner's occupancy of such building (or portion thereof) and the risk of loss for such building (or portion thereof) shall transfer to Owner, notwithstanding Section 8.2A; *provided that*, the risk of loss shall not transfer, and the Defect Correction Period shall not commence, for any Equipment housed within such building or portion thereof (other than HVAC and lighting).

11.8 **Operations Activities**. Prior to Substantial Completion of the Train 2 Expansion, but after RLFC has been achieved, Contractor shall, to the extent reasonably possible, assist Owner in the operations and maintenance of the Train 2 Expansion in accordance with Owner's reasonable requests and all Permits, including with respect to the performance of activities in connection with (i) the berthing of LNG Tankers and loading of LNG; (ii) the receipt of natural gas feed; (iii) producing LNG; and (iv) such other activities as reasonably requested by Owner (each, an "***Operations Activity***" and, collectively, the "***Operations Activities***"). Contractor shall not have the obligation to follow Owner's requests for any Operations Activity if such Operations Activity adversely impacts Performance Testing or repairs to the Train 2 Expansion or impacts the ability to safely operate the Train 2 Expansion in accordance with the requirements of this Agreement. Contractor shall promptly provide notice to Owner informing Owner whether it can comply with Owner's requests and the reason if it cannot so comply. Contractor's performance of the Operations Activities shall not in any way release Contractor from any obligations or liabilities pursuant to this Agreement, including its obligations to meet Substantial Completion and Final Completion. Notwithstanding anything to the contrary in this Section, any restrictions concerning Operations Activity shall not apply to the scheduling and berthing of LNG Tankers or the loading or unloading of LNG to or from the LNG Tankers after any LNG Tankers have been called or scheduled.

11.9 **LNG Tankers Calling on the Facility**. Subject to Section 11.8, Contractor acknowledges that certain Operations Activities may involve the berthing, loading or unloading of LNG Tankers (other than the LNG Tankers calling on the Facility for the first load of the Train 2 Expansion or for Performance Testing). Owner shall give Contractor at least fourteen (14) Days prior written notice of the berthing, loading or unloading of such LNG Tankers. Owner and Contractor shall develop a written plan to avoid or minimize impacts, if any, to the Work which would be caused by the berthing, loading or unloading of such LNG Tankers.

11.10 **Long-Term Obligations**. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of RFSU, RLFC, Substantial Completion or Final Completion, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations, any liabilities for which insurance is required or any other responsibility of Contractor, including the payment of any and all fines and penalties assessed as a result of Contractor's failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 11 shall in any way modify or alter Contractor's obligations under Article 12 and Article 13 hereof.

ARTICLE 12
WARRANTY AND CORRECTION OF WORK

12.1 **Warranty**.

A. ***General***. The warranties set forth in this Article 12 (collectively, the "***Warranty***" or "***Warranties***") are in addition to any of the Minimum Acceptance Criteria or Performance Guarantees set forth in this Agreement. Any Work, or component thereof,

that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

B. ***Warranty of Work***. Contractor hereby warrants that the Work, including Equipment, and each component thereof shall be:

1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;

2. in accordance with all of the requirements of this Agreement, including in accordance with GECP, Applicable Law and Applicable Codes and Standards;

3. free from encumbrances to title, as set forth in greater detail in Section 8.1;

4. free from defects in design, material and workmanship; *provided that*, tolerances in material and workmanship allowable by Applicable Law or Applicable Codes and Standards shall not be considered a defect unless the Scope of Work sets forth stricter tolerances; and

5. with respect to Equipment or any component of Equipment, unless otherwise specifically agreed in writing by Owner by Change Order, composed and made of only proven technology, of a type in commercial operation at the Effective Date of this Agreement, with conditions substantially similar to those contained herein; *provided that* Owner's agreement for Contractor to use any Equipment not in compliance with this Section 12.1B.5 shall not relieve Contractor of any of its obligations under this Agreement.

C. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work. All such warranties shall be deemed to run to the benefit of Owner and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be enforceable by Owner upon Substantial Completion. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 12 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is

jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument.

D. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by Owner; (ii) operation, maintenance or use of Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Contractor to Owner; (iii) normal wear and tear; or (iv) erosion or corrosion as a result of environmental elements not reasonably expected given the location of the Site.

12.2 **Correction of Work Prior to Substantial Completion**.

A. ***General Rights***. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon receipt of such written notice, Contractor shall, at its own expense, promptly correct such Defective Work, whether by repair, replacement or otherwise. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such dispute. If it is later determined that the Work was not Defective, then Owner shall reimburse Contractor for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact the repair or replacement may have had on the Train 2 Project Schedule. If Contractor fails, after a reasonable period of time not to exceed one (1) week, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor may repair or replace such Defective Work and the expense thereof shall be paid by Contractor; *provided, however*, if the Defective Work materially affects the operation or use of the Existing Facility or the Train 2 Expansion after it has achieved RLFC, or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty-four (24) hours after receipt of notice of such Defective Work, and thereafter continue to proceed diligently to complete the same, or Owner may repair or replace such Defective Work and the expense thereof shall be paid by Contractor.

B. ***Witness Points***. Contractor shall provide Owner a proposed list of witness points for each item of Equipment for Owner's review and prior written approval no later than thirty (30) Days' after placement of the applicable Subcontract for such item of Equipment, and Owner shall notify Contractor which of the witness points it wishes its

personnel to witness. Contractor shall provide Owner with at least thirty (30) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Owner's right of inspection as set forth herein applies only to its witnessing of witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion on the Work (including Equipment) at any time in its sole discretion and in accordance with this Agreement.

C. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 12.2A and 12.2B shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

D. ***Cost of Disassembling***. 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 Owner if such Work is found to conform with the requirements of this Agreement and by Contractor if such Work is found to be Defective.

12.3 **Correction of Work After Substantial Completion**. If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work, whether by repair, replacement or otherwise, including any and all obligations in connection with such repair, replacement or otherwise, such as in and out costs, storage, labor, Taxes, transportation and expediting costs and any other costs necessary to fully correct the Work (collectively, the "***Corrective Work***"). Owner shall provide Contractor with access to the Facility, and will de-energize and de-pressure the applicable Equipment, sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the construction or operation of the Facility and subject to any reasonable security or safety requirements of Owner. In the event Contractor utilizes spare parts owned by Owner in the course of performing the Corrective Work, Contractor shall supply Owner free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by Contractor as soon as possible following the utilization of such spare parts. Unless otherwise allowed by Owner in writing, Contractor will maintain at least one (1) Contractor's representative at the Site during the Defect Correction Period to assist in coordinating the resolution of any Defective Work.

A. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (including notification to Owner of its implementation plan to perform the Corrective Work) within a reasonable period of time not to exceed five (5) Days after receipt of Owner's written notice to Contractor identifying and describing with reasonable specificity that portion of Work that is Defective, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work, and Contractor shall be liable to Owner for all

reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses; *provided, however*, if any Defective Work materially affects the construction, operation or use of any of the Work or the Facility or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work without giving prior written notice to Contractor, and, in such event, Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses.

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.

C. ***Standards for Corrective Work***. All Corrective Work shall be performed subject to the same terms and conditions under this Agreement as the original Work is required to be performed. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Owner.

D. ***No Limitation***. Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the Defect Correction Period relates only to the specific obligation of Contractor to perform Corrective Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work.

12.4 **Assignability of Warranties**. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

12.5 **Waiver of Implied Warranties**. EXCEPT FOR ANY EXPRESS WARRANTIES UNDER THIS AGREEMENT (INCLUDING THE WARRANTIES), THE PARTIES HEREBY DISCLAIM ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY IMPLIED WARRANTY OF HABITABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 13
GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

13.1 **Guarantee of Timely Completion**. Contractor specifically acknowledges that time is of the essence as to the Guaranteed Substantial Completion Date, Guaranteed Record

As-Built Delivery Date and the dates for when Contractor is required to be ready under this Agreement to load the LNG Tanker for RLFC.

13.2 **Delay Liquidated Damages**.

A. ***Delay in Substantial Completion***. If Substantial Completion occurs after the Guaranteed Substantial Completion Date, Contractor shall pay to Owner the amounts listed in Attachment E per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Substantial Completion Delay Liquidated Damages***").

B. ***Delay in Achieving Record As-Built Delivery Requirement***. If the Record As-Built Delivery Requirement occurs after the Guaranteed Record As-Built Delivery Date, Contractor shall pay to Owner Ten Thousand Dollars per Day for each Day, or portion thereof, of delay until the Record As-Built Delivery Requirement is achieved (the "***Record As-built Delivery Requirement Delay Liquidated Damages***").

C. ***RLFC Delay Liquidated Damages***. RLFC Delay Liquidated Damages shall be assessed in accordance with Section 11.1D and paid in accordance with Section 13.2E.

D. ***MCHE Replacement Delay Liquidated Damages***. MCHE Replacement Delay Liquidated Damages shall be assessed in accordance with Section 11.4B.2 and paid in accordance with Section 13.2E.

E. ***Payment of Delay Liquidated Damages***. With respect to any Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within thirty (30) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages. In addition, with respect to the achievement of Substantial Completion, Contractor shall pay Owner all Delay Liquidated Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

13.3 **Schedule Bonus**. Contractor shall be entitled to a bonus in the amount of Five Hundred Thousand U.S. Dollars (U.S.$500,000) per Day for each Day that Contractor achieves Substantial Completion before the Schedule Bonus Date; *provided that* (i) the maximum bonus payable under this Section 13.3 shall be Seventy-Five Million U.S. Dollars (U.S.$75,000,000) and (ii) the bonus payable under this Section 13.3 shall be reduced in the amount of the sum of any claims by Owner against Contractor, any claims by Contractor against Owner or any liens against the Site that are brought by Contractor or any Subcontractors or Sub-subcontractors, if such claims are not resolved as of the date of Final Completion. Any bonus owed under this Section 13.3 shall be paid by Owner within thirty (30) Days after Final Completion and Owner receiving an invoice for such bonus.

ARTICLE 14
CONTRACTOR'S REPRESENTATIONS

Contractor, CB&I and Zachry represent and warrant, as applicable, that:

14.1 **Corporate Standing**. Contractor is a joint venture duly organized, validly existing and in good standing under the laws of the State of Texas; CB&I is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas; Zachry is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; and each is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

14.2 **No Violation of Law; Litigation**. Each is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best of its knowledge) threatened against Contractor, CB&I or Zachry that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, CB&I or Zachry, or the ability of any of them to perform under this Agreement.

14.3 **Licenses**. Contractor is either the holder of all Permits, or will acquire all Permits required to permit it to operate or conduct its business as required by Section 3.12.

14.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the charter or by-laws of Contractor, CB&I or Zachry, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor, Zachry or CB&I is a party or by which any of them are bound or to which any of them are, or any of their property or assets is, subject, or constitute a default under any such agreement or instrument.

14.5 **Corporate Action**. Each has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of each; and this Agreement has been duly and validly executed and delivered by each and constitutes a legal, valid and binding obligation of Contractor, CBI and Zachry enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

14.6 **Financial Solvency**. Each is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Each Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.16 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.16.

ARTICLE 15
OWNER'S REPRESENTATIONS

Owner represents and warrants that:

15.1 **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2 **No Violation of Law; Litigation**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.3 **Licenses**. It is the holder of (or is a beneficial user of) or will take the necessary action to obtain, or cause to be obtained, all Permits under Attachment Q.

15.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the operating agreement or by-laws of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.5 **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.6 **Financing and Payment**. Owner has obtained financing, or will obtain financing prior to or upon issuance of NTP, from one or more Lenders to enable it to pay all debts as they mature and perform its payment obligations under this Agreement.

ARTICLE 16
DEFAULT, TERMINATION AND SUSPENSION

16.1 **Default by Contractor**.

A. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) repeatedly fail to prosecute the Work in a diligent, efficient, workmanlike, skillful and safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) effect an Abandonment of the Train 2 Project; (iv) repudiate any of its material obligations under the Agreement; (v) repeatedly fail to use an adequate amount or quality of personnel or equipment to perform and complete the Train 2 Project without delay; (vi) be in Default pursuant to Section 5.4F, 11.4A or 21.7; (vii) fail to maintain insurance required under this Agreement; (viii) fail to provide or maintain the Letters of Credit or the Parent Guarantee in accordance with Section 9.2 or Section 21.16, respectively; (ix) fail to discharge or bond liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (x) cause, by any action or omission, any material stoppage or delay of or interference with the operations of the Existing Facility, except as allowed under Section 3.25; (xi) fail to make payment to Subcontractors for labor or materials owed in accordance with the respective Subcontracts; (xii) disregard Applicable Law or Applicable Codes and Standards; (xiii) fail to comply with any material provision of this Agreement; or (xiv) itself or the Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection (each of the foregoing being a "***Default***") then (following Owner's written notice to Contractor specifying the general nature of the Default, unless Contractor cures such condition within the applicable Cure Period, if any, set forth below) Owner, at its sole option and without prejudice to any other rights that it has under this Agreement, but remaining subject to the limitations of liability set forth in Article 20, may (1) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all reasonable, additional costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation expenses) incurred by Owner in connection therewith, (2) terminate for Default Contractor's performance of all or any part of the Work, or (3) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Notwithstanding the foregoing, Owner shall not be entitled to terminate Contractor as a result of a delay in achieving Substantial Completion during the first six (6) months after the Guaranteed Substantial Completion Date; *provided that* Owner shall be entitled to terminate Contractor prior to the expiration of such six (6) month period if (i) Contractor is not paying to Owner when owed Delay Liquidated Damages during such six (6) month period or Contractor is not diligently performing the Work and (ii) Owner is otherwise entitled to terminate Contractor under this Section 16.1A. In addition, Owner shall not be entitled to terminate Contractor for anticipatory delay in achieving Substantial Completion unless, based on the current progress of the Work, Contractor is projected to achieve Substantial Completion six (6) months or more beyond the Guaranteed Substantial Completion Date, *provided that* Owner shall be entitled to terminate Contractor at any time if Contractor is

not diligently performing the Work and Owner is otherwise entitled to terminate Contractor under this Section 16.1A.

1. Contractor shall have the following time periods to cure Defaults identified by Owner pursuant to Section 16.1A (as applicable, the "***Cure Period***"): (A) for items (i), (ii), (iii), (iv), (v), (x), and (xiii) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default, *provided that*, if, due to the nature of the Default, it cannot be cured by exercising all practicable diligence within such 30-Day period, Contractor shall cure the Default as soon as reasonably practicable but, in any event, not more than sixty (60) Days after receipt of written notice from Owner of the Default (unless otherwise expressly agreed upon by the Parties in writing); (B) for items (vii), (viii), (ix), (xi) and (xii) in Section 16.1A, Contractor shall cure the Default within fourteen (14) Days after receipt of written notice from Owner of such Default; (C) for a Default pursuant to Section 5.5H via item (vi) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default; (D) for a Default pursuant to item (xiv) in Section 16.1A or pursuant to Section 11.4A via item (vi) in Section 16.1A, no Cure Period shall be provided and Owner's right to terminate shall be exercisable immediately upon Contractor being provided written notice of Default; and (E) for a Default pursuant to Section 21.7 via item (vi) in Section 16.1A, Contractor shall cure the Default within five (5) Business Days after receipt of written notice from Owner of such Default.

B. ***Additional Rights of Owner Upon Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1A, then Owner may, at its sole option, (i) enter onto the Site and, for the purpose of completing the Work, take possession of all equipment, tools, supplies, scaffolding and machinery rented by Contractor and all Equipment, Books and Records and Work Product, (ii) take assignment of any or all of the Subcontracts, and/or (iii) complete the Work either itself or through others. If the unpaid balance of the Contract Price shall exceed all damages, costs, losses and expenses incurred by Owner (including all attorneys' fees, consultant fees and litigation expenses, costs to complete the Work, Delay Liquidated Damages and any and all damages for failure of performance and cost of financing or interest on such expense from the date such expense was incurred by Owner at the rate specified in Section 7.7), then such excess shall be paid by Owner to Contractor, but such amount shall not be paid until after Final Completion has been achieved. If such amount incurred by Owner shall exceed the unpaid balance of the Contract Price, then, at Owner's sole option, Contractor shall pay Owner the difference within thirty (30) Days after written notice of the demand, or Owner shall have the right and authority to offset or collect on the Letter of Credit in the amount of such difference. Subject to Article 20, Contractor's liability under this Section 16.1B is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination for Default, including the obligations to act reasonably promptly in replacing Contractor with a substitute contractor. In the event of a

termination for Default, the Parties agree that Owner shall be entitled to all damages, losses and reasonable costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages; *provided that* Contractor's maximum liability under this Article 16 is limited by the limitations of liability set forth in Article 20, including, for Delay Liquidated Damages, as provided by Section 20.3A. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for purposes of this Section 16.1B, and with respect to Substantial Completion that was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion or, using GECP, should have achieved Substantial Completion under the circumstances.

C. ***Obligations Upon Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) inventory, maintain and turn over to Owner all equipment, machinery, materials, tools, supplies and scaffolding rented by Contractor or provided by Owner for performance of the terminated Work, (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations under Section 16.1B.

16.2 **Termination for Convenience by Owner**. Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts, (iv) assist Owner in the maintenance, protection, and disposition of Work in progress, (v) cooperate with Owner for the efficient transition of the Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards and Owner may, at its sole option, take assignment of any or all of the Subcontracts. Contractor

shall be paid (1) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement) prior to termination, less that portion of the Contract Price previously paid to Contractor (including down payments, if any, made under this Agreement), plus (2) reasonable close-out costs (plus profit and general and administrative expenses for such costs) submitted in accordance with this Section, plus (3) reasonable costs (plus profit and general and administrative expenses for such costs) for demobilizing Contractor, Subcontractor and Sub-subcontractor personnel, construction equipment and temporary facilities from the Site to their point of origin, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable close-out and demobilization costs to Owner for verification and audit within one hundred twenty (120) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of One Hundred U.S. Dollars (U.S.$100) for its undertaking to perform. With respect to payments regarding Payment Milestones, the Parties recognize and agree that the amount and timing of the Payment Milestone payments have been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under the Payment Milestones. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for such Payment Milestones performed but instead shall be entitled to the value of the Work actually performed.

16.3 **Suspension of Work**. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Expansion Facility Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the Train 2 Project Schedule if and to the extent permitted under Section 6.9. Upon receipt of notice to resume suspended Work, Contractor shall promptly resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 **Suspension by Contractor**. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, subject to Owner's right to withhold or offset payment to Contractor under this Agreement, if Owner fails to pay undisputed amounts due and owing to Contractor and Owner has failed to cure such failure within thirty (30) Days following Contractor's written notice to Owner to cure such failure, Contractor may suspend performance of the Work until Contractor receives such undisputed amounts. Contractor shall be entitled to a

Change Order for any costs incurred by Contractor resulting from such suspension and shall be entitled to an extension in the Train 2 Project Schedule to the extent permitted under Section 6.9.

16.5 **Termination by Contractor**. Contractor may terminate this Agreement if, continuing at the time of such termination, Contractor has stopped the performance of all Work under this Agreement pursuant to Section 16.4 for thirty (30) Days, and after the expiration of such thirty (30) Day period, Contractor gives Owner written notice specifying the nature of the default and its intent to terminate the Agreement, and Owner fails to cure such default within thirty (30) Days after receipt of Contractor's notice. In the event of any such termination under this Section 16.5, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 in the event of an Owner termination for convenience. This Section 16.5 and Sections 16.6 and 21.7 set forth Contractor's only rights to terminate this Agreement.

16.6 **Termination Due to Extended Force Majeure**. Contractor may terminate this Agreement by providing written notice to Owner of its intent to terminate the Agreement in the event a single event of Force Majeure prevents performance of all of the Work for a period of time in excess of ninety (90) Days, unless prior to the expiration of such ninety (90) Day period Owner agrees to pay Contractor's reasonable standby costs incurred by Contractor after the expiration of such ninety (90) Days, which shall be documented by Change Order. If Owner agrees to pay such reasonable standby costs and commences paying such reasonable standby costs, then Contractor shall not be entitled to terminate the Agreement until the expiration of a total of three hundred sixty-five (365) Days. In the event of any termination under this Section 16.6, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 regarding a termination for convenience.

ARTICLE 17
INDEMNITIES

17.1 **General Indemnification**. IN ADDITION TO ITS INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS CONTAINED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND OWNER INDEMNIFIED PARTIES FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY OF THE FOLLOWING:

A. ACTUAL OR ALLEGED FAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT;

B. SUBJECT TO SECTIONS 17.4 AND 19.2A, ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B;

C. ACTUAL OR ALLEGED CONTAMINATION, SPILL, RELEASE, DISCHARGE OR POLLUTION ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ONTO THE SITE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, OR ANY INCREASED CONTAMINATION OR POLLUTION CAUSED BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR DUE TO THE FAILURE TO STOP WORK UPON DISCOVERING ANY PRE-EXISTING HAZARDOUS MATERIALS WHICH CONTRACTOR OR SUCH SUBCONTRACTOR OR SUB-SUBCONTRACTOR KNOWS OR REASONABLY SUSPECTS TO BE HAZARDOUS MATERIAL;

D. CLAIMS BY ANY GOVERNMENTAL INSTRUMENTALITY AS A RESULT OF A FAILURE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TO PAY TAXES FOR WHICH IT IS RESPONSIBLE UNDER THIS AGREEMENT;

E. FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT; OR

F. BODILY INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO THE WORK, TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

17.2 **Injuries to Contractor's Employees and Damage to Contractor's Property**. NOTWITHSTANDING THE PROVISIONS OF SECTION 17.1F, CONTRACTOR SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR OR SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY EMPLOYEE, OFFICER OR DIRECTOR OF ANY OF THEM, REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF AN OWNER INDEMNIFIED PARTY.

17.3 **Injuries to Owner's Employees and Damage to Owner's Property**. OWNER SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS, DIRECTORS OF ANY OWNER INDEMNIFIED PARTY OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF OWNER INDEMNIFIED PARTIES (EXCLUDING THE WORK, THE

EXPANSION FACILITY AND THE EXISTING FACILITY), REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF ANY CONTRACTOR INDEMNIFIED PARTY.

17.4 **Owner's Patent and Copyright Indemnification**. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS ATTRIBUTABLE TO PROCESSES PRACTICED BY OWNER IN THE OPERATION OF THE EXISTING FACILITY, UNLESS SUCH PROCESS IS UNDERTAKEN AS REQUIRED IN WRITING BY CONTRACTOR (OR REQUIRED UNDER THE SCOPE OF WORK) TO FACILITATE THE PERFORMANCE OF THE WORK OR THE OPERATION OF THE EXPANSION FACILITY.

17.5 **Contractor's Patent and Copyright Indemnification**. IN THE EVENT THAT ANY SUIT, CLAIM, TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IS GRANTED IN CONNECTION WITH SECTION 17.1B, CONTRACTOR SHALL, IN ADDITION TO ITS OBLIGATION UNDER SECTION 17.1B, 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, CONTRACTOR SHALL PROMPTLY MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE, AT NO COST TO OWNER, AUTHORIZING CONTINUED USE OF THE INFRINGING WORK. IF CONTRACTOR IS UNABLE TO SECURE SUCH A LICENSE WITHIN A REASONABLE TIME, CONTRACTOR 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. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B.

17.6 **Lien Indemnification**. SHOULD ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY OTHER PERSON ACTING THROUGH OR UNDER CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR FILE A LIEN OR OTHER ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE WORK, THE SITE OR THE FACILITY, CONTRACTOR SHALL, AT ITS SOLE COST AND EXPENSE, REMOVE AND DISCHARGE, BY PAYMENT, BOND OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE WITHIN TWENTY (20) DAYS AFTER THE FILING OF SUCH LIEN OR ENCUMBRANCE, *PROVIDED THAT*, OWNER HAS MADE PAYMENT TO CONTRACTOR OF ALL UNDISPUTED AMOUNTS OWED TO CONTRACTOR IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF CONTRACTOR FAILS TO REMOVE AND DISCHARGE ANY SUCH LIEN OR ENCUMBRANCE WITHIN SUCH TWENTY (20) DAY PERIOD, THEN OWNER MAY, IN ITS SOLE DISCRETION AND IN ADDITION TO ANY OTHER RIGHTS THAT IT HAS UNDER THIS AGREEMENT, AT LAW OR EQUITY, TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

A. REMOVE AND DISCHARGE SUCH LIEN AND ENCUMBRANCE USING WHATEVER MEANS THAT OWNER, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE, INCLUDING THE PAYMENT OF SETTLEMENT AMOUNTS THAT IT DETERMINES IN ITS SOLE DISCRETION AS

BEING NECESSARY TO DISCHARGE SUCH LIEN OR ENCUMBRANCE. IN SUCH CIRCUMSTANCE, CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES, AND SETTLEMENT PAYMENTS) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH REMOVAL AND DISCHARGE. ALL SUCH DAMAGES, COSTS, LOSSES AND EXPENSES SHALL BE PAID BY CONTRACTOR NO LATER THAN THIRTY (30) DAYS AFTER RECEIPT OF EACH INVOICE FROM OWNER;

B. SEEK AND OBTAIN AN ORDER GRANTING SPECIFIC PERFORMANCE FROM A COURT OF COMPETENT JURISDICTION, REQUIRING THAT CONTRACTOR IMMEDIATELY DISCHARGE AND REMOVE, BY BOND, PAYMENT OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE. THE PARTIES EXPRESSLY AGREE THAT OWNER SHALL BE ENTITLED TO SUCH SPECIFIC PERFORMANCE AND THAT CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH SPECIFIC PERFORMANCE ACTION. CONTRACTOR AGREES THAT THE FAILURE TO DISCHARGE AND REMOVE ANY SUCH LIEN OR ENCUMBRANCE WILL GIVE RISE TO IRREPARABLE INJURY TO OWNER AND OWNER'S AFFILIATES, AND FURTHER, THAT OWNER AND SUCH OWNER AFFILIATES WILL NOT BE ADEQUATELY COMPENSATED BY DAMAGES; OR

C. CONDUCT THE DEFENSE OF ANY ACTION IN RESPECT OF (AND ANY COUNTERCLAIMS RELATED TO) SUCH LIENS OR ENCUMBRANCES AS SET FORTH IN SECTION 17.7, WITHOUT REGARD TO CONTRACTOR'S RIGHTS UNDER SUCH SECTION.

17.7 **Legal Defense**. 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 AGREEMENT, 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 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 SECTION 17.7, 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 ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION 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 INTEREST ON SAME FROM THE DATE ANY SUCH COST AND EXPENSE WAS PAID BY SUCH INDEMNIFIED PARTY UNTIL REIMBURSED BY THE INDEMNIFYING PARTY AT THE INTEREST RATE SET FORTH IN THIS AGREEMENT.

17.8 **Enforceability**.

A. EXCEPT AS OTHERWISE SET FORTH ABOVE, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR BODILY INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT 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 17 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

B. OWNER AND CONTRACTOR AGREE THAT THE TEXAS OILFIELD ANTI-INDEMNIFICATION ACT, TEX. CIV. PRAC. & REM. CODE ANN. §§ 127.001-005, TEX. CIV. PRAC. & REM. CODE ANN. §§ 130.001-005 AND TEX. INS. CODE ANN. CHAPTER 151 ARE 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, EACH PARTY HEREBY AGREES TO 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 CONTRACTOR AGREES THAT THE CONTRACT PRICE COMPENSATES CONTRACTOR FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THE AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

C. 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. EACH PARTY ACKNOWLEDGES SPECIFIC PAYMENT OF TEN AND NO/100 U.S. DOLLARS (U.S. $10.00) AS LEGAL CONSIDERATION FOR THE INDEMNITY OBLIGATIONS AS MAY BE PROVIDED IN THIS AGREEMENT.

ARTICLE 18
DISPUTE RESOLUTION

18.1 **Negotiation**. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute,

regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement) ("***Dispute***") cannot be resolved informally within fifteen (15) Days after the Dispute arises, or such longer period of time as mutually agreed to in writing by the Parties, either Party may give written notice to the other Party requesting that a representative of Owner's senior management and Contractor's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such notice, or such longer period of time as mutually agreed to in writing by the Parties, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 18.1 be construed to limit either Party's right to take any action under this Agreement, including Owner's rights under Section 16.1.

18.2 **Mediation**. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) Days of receipt of the notice set forth in Section 18.1, then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other Party requesting such mediation, which shall be held in Houston, Texas, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) Days after the date written notice of mediation is received, either Party may petition the American Arbitration Association ("***AAA***") for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the AAA's Construction Industry Arbitration Rules and Mediation Procedures then in effect. The mediation shall be concluded within forty-five (45) Days after receipt of the mediation request, unless the Parties agree otherwise. The Parties and the mediator shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (i) views expressed or suggestions made by either Party with respect to a possible settlement of the Dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement made by the mediator. With respect to expenses related to mediation, the expenses of witnesses for either Party shall be paid by the Party producing such witnesses; all other expenses of mediation, including required traveling, fees and other expenses of the mediator, shall be borne equally by the Parties unless otherwise agreed by the Parties. Mediation is an absolute condition precedent to litigation, except (i) to the extent necessary to avoid statute of limitation issues or to preserve bond rights, (ii) if another Dispute is already subject to litigation pursuant to this Article or (iii) if a dispute under the Train 1 EPC Agreement is already subject to litigation pursuant to its terms and the Dispute hereunder is related to such Train 1 EPC Agreement dispute.

18.3 **Litigation**. In the event that the Dispute is not resolved by mediation within forty-five (45) Days (or such other time agreed upon in writing by the Parties pursuant to Section 18.2) after receipt of the mediation request given in accordance with 18.2, then the Parties agree that such Dispute shall be decided by litigation pursuant to this Section 18.3. Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail

in accordance with the notice provisions of this Agreement, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdiction. Nothing herein shall affect the right of any Party to serve legal process in any manner permitted by Applicable Law or affect its right to bring any action that does not arise out of or relate to this Agreement in any other court of competent jurisdiction. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE BETWEEN THE PARTIES OR WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

18.4 **Continuation of Work During Dispute**. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 or 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall the occurrence of any negotiation or litigation prevent or affect Owner from exercising its rights under this Agreement, including Owner's right to terminate pursuant to Article 16.

ARTICLE 19
CONFIDENTIALITY

19.1 **Contractor's Obligations**. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information, whether disclosed prior to or after the Effective Date: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary for such Subcontractor or Sub-subcontractor to perform any Work or (ii) any other information which is conspicuously marked and identified in writing as confidential and relates to the business, products, services, research or development, actual or potential clients or customers, financing of the Train 2 Project, designs, methods, discoveries, trade secrets, research, development or finances of Owner or any Owner Affiliate, or relating to similar information of a third party who has entrusted such information to Owner or any Owner Affiliate (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to disclosing any Owner's Confidential Information in (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Proprietary Work Product.

19.2 **Owner's Obligations**. Owner hereby covenants and warrants that Owner 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 any of the following information: (i) any estimating, technical or pricing information, methodologies,

techniques or know-how of Contractor or its Subcontractors relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor, (ii) any of Contractor's Intellectual Property or Third Party Proprietary Work Product, which is conspicuously marked and identified in writing as confidential by Contractor or (iii) any financial information provided to Owner pursuant to Section 9.4, whether or not marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). Subject to Section 19.2A, the Parties agree that Owner may disclose Contractor's Confidential Information to its Affiliates, partners, underwriters, customers, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and its representatives, Owner's (or Owner's Affiliates') consultants, rating agencies or any other party in relation to project financing for the Train 2 Project, *provided that* Owner binds such Persons to confidentiality obligations similar to those contained in this Section 19.2. Notwithstanding the foregoing (but subject to Section 10.1), in no event shall Owner be restricted in any way from the use or disclosure of the Work Product, and Owner shall be entitled to disclose to Persons that portion of Contractor's Intellectual Property and Third Party Proprietary Work Product for which Owner has a license to the extent such disclosure is consistent with the purposes for which such license is granted pursuant to Section 10.1.

A. Notwithstanding the foregoing rights and obligations set forth in Section 19.2, with respect to Air Products and Chemicals, Inc.'s (APCI) Third Party Proprietary Work Product disclosed to any members of the board of directors of Owner or any of its Affiliates that are employed by ConocoPhillips Company, Owner shall prevent any disclosure of such APCI Third Party Proprietary Work Product to other employees or representatives of ConocoPhillips Company (who are not a member of those boards of directors) or the use of such APCI Third Party Proprietary Work Product by such board member as part of his or her employment with ConocoPhillips Company (other than employment functions related to being a member of such board of directors) and, in the event such unauthorized disclosure or use of APCI Third Party Proprietary Work Product does occur, Owner shall protect, indemnify, defend and hold Contractor Group harmless from and against all claims, demands, causes of action, and suits of every type and character (including intellectual property infringement claims), including reasonable attorney's fees, brought by APCI or ConocoPhillips against Contractor Group and arising out of such unpermitted disclosure or use.

19.3 **Definitions**. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 **Exceptions**. Notwithstanding Sections 19.1 and 19.2, 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 Article 19; (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, other

than directly or indirectly disclosed or acquired through the FEED Agreement, or any other agreements between the Parties related to the Train 2 Project; (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, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies, including FERC, in connection with the Facility to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed and, to the extent reasonably capable under Applicable Law and the circumstances surrounding the disclosure, shall provide Disclosing Party with an opportunity to take appropriate steps the Disclosing Party believes are necessary to protect the confidentiality and/or proprietary nature of its Confidential Information.

19.5 **Equitable Relief**. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, 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, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 **Term**. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of ten (10) years following the expiration or earlier termination of this Agreement.

ARTICLE 20
LIMITATION OF LIABILITY

20.1 **Contractor Aggregate Liability**. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of Four Hundred and Thirty Million U.S. Dollars (U.S.$430,000,000) in the aggregate; *provided that*, notwithstanding the foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply in the event of Abandonment of the Train 2 Project by Contractor; (ii) apply to Contractor's indemnification obligations under this Agreement with respect to any claims brought by a third party; (iii) apply to Contractor's obligation to deliver to FLIQ CF full legal title to and ownership of all or any portion of the Work and the Train 2 Expansion as required under this Agreement; (iv) include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Contractor or any of its Subcontractors or Sub-subcontractors under this Agreement; or (v) apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion for the Train 2 Expansion and the costs incurred by Contractor in performing the Work shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Contractor, Owner, Lender or their respective Affiliates or member companies.

20.2 **Damage to the Existing Facility, the Train 1 Expansion After Substantial Completion Under the Train 1 EPC Agreement and the Train 2 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 or Train 1 Expansion) for any damages, losses, costs and expenses arising from or related to damage to or destruction of (i) any portion of the Train 2 Expansion occurring after the Train 2 Expansion has achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2A for Existing Facility Modifications at Handover), (ii) of the Existing Facility or (iii) the Train 1 Expansion after its substantial completion under the Train 1 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 or joint negligence or fault of any Contractor Indemnified Party or Contractor's Subcontractors or Sub-subcontractors. 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, 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*, that Contractor's liabilities assumed under this Section 20.2 shall remain subject at all times to 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 2 Expansion occurring after the Train 2 Expansion achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2A for Existing Facility Modifications at Handover), (b) the Existing Facility and (c) any portion of the Train 1 Expansion occurring after substantial completion of the Train 1 Expansion under the Train 1 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 2 Expansion under Section 8.2.

20.3 **Limitation on Contractor's Liability for Delay Liquidated Damages**.

A. ***Delay Liquidated Damages***. Subject to Section 20.3B, Contractor's maximum liability to Owner for Delay Liquidated Damages is One Hundred Ninety Million U.S. Dollars (U.S.$190,000,000) in the aggregate. For purposes of clarity, the Substantial Completion Delay Liquidated Damages, the RLFC Delay Liquidated Damages, the MCHE Replacement Delay Liquidated Damages and the Record As-Built Delivery Requirement Delay Liquidated Damages assessed against Contractor pursuant to Sections 13.2A, 11.1D, 11.4B, and 13.2B, respectively, shall apply towards the foregoing limitation of Contractor's Delay Liquidated Damages.

B. ***Exceptions to Limitations of Liability Under Section 20.3***. Section 20.3A shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve Substantial Completion and Final Completion and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.3 apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel.

20.4 **Delay Liquidated Damages In General**.

A. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of the per Day rate of the Delay Liquidated Damages on the basis that such per Day rate constitutes a penalty or is otherwise unenforceable or invalid. If Contractor, Guarantor or anyone on their behalf successfully challenges the per Day rate of any Delay Liquidated Damages, Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement. For the avoidance of doubt, this Section 20.4A shall not preclude Contractor from contesting whether it is responsible for delays giving rise to Owner's claims for Delay Liquidated Damages.

B. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement. Notwithstanding the foregoing: (1) Substantial Completion Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for delay in achieving Substantial Completion of the Train 2 Expansion, (2) the Record As-Built Delivery Requirement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving the Record As-Built Delivery Requirement, (3) the RLFC Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in readiness to load the LNG Tanker as set forth in Section 11.1D and (4) the MCHE Replacement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving Substantial Completion due to an MCHE Replacement Scenario.

20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF

PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES; *PROVIDED THAT* THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 20.5 SHALL NOT APPLY: (I) TO THE DELAY LIQUIDATED DAMAGES SET OUT IN SECTION 13.2; (II) TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS BROUGHT BY ANY THIRD PARTY; OR (III) WHERE CONSEQUENTIAL DAMAGES ARE EXPRESSLY PERMITTED UNDER SECTION 20.4A. FOR THE PURPOSES OF THIS SECTION 20.5, THE TERM "THIRD PARTY" SHALL MEAN ANY PERSON OTHER THAN CONTRACTOR, OWNER OR ANY OF THEIR RESPECTIVE AFFILIATES. AS USED IN THIS SECTION 20.5, OWNER SHALL MEAN THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR SHALL MEAN THE CONTRACTOR INDEMNIFIED PARTIES AND CONTRACTOR'S SUBCONTRACTORS AND SUB-SUBCONTRACTORS.

20.6 **Owner Separate Contracts**. In any separate contract which Owner enters into after the Effective Date with technical consultants and contractors (other than Contractor) for the construction of the Train 2 Expansion, Owner shall use reasonable efforts to provide that indemnities running to the benefit of Owner in such contracts shall also run to the benefit of Contractor.

20.7 **Continuing Rights and Obligations**. Owner and Contractor agree that (i) FLIQ CF, FLEX, FLNG Development, FLIQ2 and each of their Affiliates, (ii) any present holder of any ownership interest in the Train 2 Expansion or this Agreement, (iii) any future recipient of any ownership interest in the Train 2 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.

20.8 **Application of Liability Limitations**.

A. Except to the extent prohibited by the governing law specified in Section 21.9, or as stated in the terms of this Agreement, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability and indemnities expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract or otherwise of the Person released or whose liability is waived, disclaimed, limited, fixed or indemnified.

B. Except as specifically stated in Section 8.2A.1 (with respect to the policy deductibles for builder's risks or marine cargo insurance), no liabilities incurred by Contractor arising from the Train 1 EPC Agreement (including any delay liquidated damages assessed thereunder) shall accrue against any limitations of liability under this Agreement (including the limitations of liability set forth in Sections 20.1 and 20.3). Conversely, no liabilities incurred by Contractor arising under this Agreement (except the aforementioned portion of Section 8.2A.1), including any Delay Liquidated Damages assessed hereunder, shall accrue against any limitations of liability under the Train 1 EPC Agreement.

ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 **Entire Agreement**. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, and the Equipment Sharing Agreement (once executed) contain the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto; *provided that*, with respect to the Common Development Work, the Train 1 EPC Agreement, the Equipment Sharing Agreement and this Agreement, collectively, contain the entire understanding of the Parties and incorporate any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement or the Equipment Sharing Agreement or, with respect to the Common Development Work, the Train 1 EPC Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no applicability to Owner with respect to this Agreement. Notwithstanding anything to the contrary herein, with respect to the FEED Agreement, this Agreement and the Equipment Sharing Agreement supersede such FEED Agreement only to the extent of the work performed under the FEED Agreement that relates to the Scope of Work under this Agreement. All Work performed under the FEED Agreement and any other agreements between the Parties relating to the Scope of Work under this Agreement shall be governed by the terms and conditions set forth in this Agreement and the Equipment Sharing Agreement and, with respect to the Common Development Work, the Train 1 EPC Agreement. For purposes of clarity, the FEED Agreement shall remain effective as to any work performed thereunder that is not related to the Scope of Work under this Agreement (including that work relating to a third liquefaction train, and its corresponding pretreatment facilities, that may be located at or near the Site).

21.2 **Amendments**. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1C or Section 6.2D, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 **Joint Effort**. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

21.4 **Captions**. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.5 **Notice**. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be either (i) hand delivered; (ii) delivered by same-day or overnight courier; (iii) delivered by facsimile with written confirmation of complete transmittal; or (iv) delivered by certified mail, return receipt requested, to the other Party at the address set forth below.

A. If delivered to Owner:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: Mark Mallett

with a copy to:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: General Counsel

B. If delivered to Contractor:

CB&I/Zachry Joint Venture
c/o CB&I Inc.
6001 Rogerdale
Houston, Texas 77072
Facsimile: 713-485-1005
Attn: Chet Lloyd

with a copy to:

CB&I Inc.
2103 Research Forest Blvd.
The Woodlands, Texas 77380
Facsimile: 832-513-1591
Attn: General Counsel

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed to be received: (1) if delivered by hand, by same-day or overnight courier service, or certified mail on the date actually received at the address of the intended recipient; or (2) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.

21.6 **Severability**. The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

21.7 **Assignment**. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except Owner may assign this Agreement, in whole or part, to any of its Affiliates or any of its co-venturers or to any Person who acquires an ownership interest in Owner or the Train 2 Expansion. Furthermore, Owner may assign, pledge and/or grant a security interest in this Agreement that Owner has or which shall hereafter arise in and to Owner and all claims resulting from any failure of performance with any provision of this Agreement to any Lender without Contractor's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.7 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.7 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for Default.

21.8 **No Waiver**. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.9 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, 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 Agreement and shall be disclaimed in and excluded from any Subcontracts entered into by Contractor in connection with the Work or the Train 2 Expansion.

21.10 **Successors and Assigns**. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

21.11 **Attachments and Schedules**. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

21.12 **Obligations**. Nothing contained in this Agreement shall be construed as constituting a joint venture or partnership between Contractor and Owner.

21.13 **Further Assurances**. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. In addition, Contractor agrees to cooperate with any Lender (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement, (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not adversely affect the rights, obligations and liability limitations of Contractor hereunder and Contractor's entitlement to payment in accordance with this Agreement, and (iv) to take such action or execute such documentation as any Lender shall reasonably require.

21.14 **Priority**. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority:

A. Change Orders or written amendments to this Agreement;

B. this Agreement; and

C. Attachments and Schedules to this Agreement.

21.15 **Restrictions on Public Announcements**. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs of any part of the Facility (except as may be included in a Monthly Progress Report) or (ii) publicly refer to the Work, the Train 2 Project or any part of the Facility in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work, the Train 2 Project or any part of the Facility without the prior written consent of Owner (which shall not be unreasonably withheld). Under no circumstance shall Contractor permit access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner.

21.16 **Parent Guarantee**. CB&I Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Zachry Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. The guarantee contained in this Section 21.16 is unconditional and irrevocable. Each of the guarantees provided by CB&I Guarantor and Zachry Guarantor are individually referred to as a "***Parent Guarantee***" and collectively as "***Parent Guarantees***."

21.17 **Foreign Corrupt Practices Act**. With respect to the performance of the Work, each Party shall, and shall cause each of its contractors (or, in the case of Contractor, its Subcontractors and Sub-subcontractors), and the agents and employees of each of them to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2), as amended (or, if such act is not applicable to a Person, to act in such manner that would comply with the provisions of such act were it applicable to such Person). Neither Party shall take any action that could result in the other Party or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such Act and shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties, in order to obtain or maintain business.

21.18 **Language**. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language, unless otherwise directed by Owner in writing.

21.19 **Counterparts**. This Agreement may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by each of the Parties. Facsimile signatures shall be deemed as effective as original signatures.

21.20 **Owner's Lender(s)**. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain financing for or in connection with the Train 2 Project and Contractor agrees to cooperate with Owner and any Lender in connection with such financing (and any refinancing), including delivering, as a condition to any such financing or refinancing, such documentation and information as is customary for a financing or refinancing of such type and entering into direct agreements with such Lender, as required by such Lender, covering matters that are customary in a financing or refinancing of such type, including: Lender assignment or security rights with respect to this Agreement; opinions; direct notices to Lender, with applicable cure periods, prior to any termination, suspension or other similar action; step-in/step-out rights; an obligation on the Parties not to amend the Agreement without Lender's consent; access by such Lender's representative and other matters applicable to such financing or refinancing. Contractor acknowledges and agrees that Owner's issuance of NTP is contingent upon obtaining such non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner may terminate this Agreement for convenience in accordance with Section 16.2.

21.21 **Joint and Several Liability**. Contractor is a joint venture comprised of: (i) CB&I Inc., a Texas corporation ("***CB&I***") and (ii) Zachry Industrial, Inc., a Delaware corporation ("***Zachry***"). CB&I and Zachry agree on behalf of themselves and their respective insurers and guarantors to be jointly and severally responsible and liable to Owner for all of Contractor's duties and obligations under this Agreement and for all claims, damages, costs, expenses and all other liability arising out of or relating to the performance or failure to perform any of Contractor's duties or obligations under this Agreement or otherwise arising out of the Train 2 Project.

21.22 **Coordination Between this Agreement and Train 1 EPC Agreement**.

A. ***Administrative Coordination***. Owner and Contractor acknowledge that Owner and FLIQ1 are concurrently (but separately) developing and financing the Train 2 Expansion and Train 1 Expansion, respectively, and that Contractor is providing the turnkey engineering, procurement and construction services for both the Train 2 Expansion and the Train 1 Expansion in accordance with this Agreement and the Train 1 EPC Agreement. Notwithstanding the separate agreements under which the Train 1 Expansion and Train 2 Expansion will be developed, the Parties intend to use commercially reasonable efforts to minimize administrative duplication and expense where reasonably practicable.

B. ***Coordination of Contractor's Work and Effects of Contractor's Acts or Omissions between this Agreement and the Train 1 EPC Agreement***. Contractor

acknowledges that Contractor, in accordance with the Train 1 EPC Agreement, will design, engineer, procure, construct, pre-commission, commission, start-up and test the Train 1 Expansion while concurrently performing the Work under this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor further acknowledges that any work performed by (or on behalf of) Contractor under the Train 1 EPC Agreement (as such agreement may be modified from time to time in accordance with the terms thereof), as well as any acts or omissions of Contractor, or any of its subcontractors or sub-subcontractors in connection with the Train 1 EPC Agreement or Train 1 Expansion, shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 2 Project Schedule or any other Changed Criteria under this Agreement unless such circumstance relates to the Common Development Work and also entitles Contractor to a Change Order under Section 6.2A herein.

C. ***Coordination of FLIQ1 Directives under the Train 1 EPC Agreement***. The Parties agree and acknowledge that no act, instruction or direction by FLIQ1, or anyone acting for or on behalf of FLIQ1 under the Train 2 EPC Agreement, shall entitle Contractor to any modification of the Contract Price, Train 2 Project Schedule or any other Changed Criteria under this Agreement unless (i) such instruction or direction relates to the Common Development Work and is approved by Owner in writing (which such written approval may come in the form of Owner providing substantially identical instruction or direction in accordance with this Agreement) or (ii) the instruction or direction originates from a change order request by FLIQ1 under the Train 1 EPC Agreement for which Contractor provides timely notice to Owner under Section 6.3 and that is ratified by Owner pursuant to Section 6.3.

D. ***Coordination of Relief to Contractor as a Result of Force Majeure Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that an event of "Force Majeure" (as defined in the Train 1 EPC Agreement) which only directly impacts the Train 1-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 2 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 2 Project Schedule to the extent allowed under, and in accordance with, Section 6.8 (including, as required by such Section 6.8, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

E. ***Coordination of Relief to Contractor as a Result of Certain Owner-Assumed Risks Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that a circumstance providing Contractor with relief under Section 6.9 of the Train 1 EPC Agreement which only directly impacts the Train 1-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 2 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 2 Project Schedule to the extent allowed under, and in accordance with, Section 6.9 of this Agreement (including, as required by such Section 6.9, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

F. ***Limitation of Rights and Relief between this Agreement and the Train 2 EPC Agreement***. Except as set forth in this Section 21.22, and for purposes of clarity, any event or circumstance entitling Contractor to a change order under the Train 1 EPC Agreement shall not, in and of itself, entitle Contractor to a Change Order under this Agreement unless such event or circumstance, separately, entitles Contractor to a Change Order under Section 6.2A.

21.23 **Survival**. Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 16, Article 17, Article 18 and Article 19, Article 20, Sections 3.6, 3.8, 3.13, 3.14, 3.17, 4.5, 4.6, 8.1, 8.2, 11.10, 21.1, 21.9, 21.16, 21.21 and this Section 21.23 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Owner:

FLNG LIQUEFACTION 2, LLC

By: Freeport LNG Expansion, L.P., its sole member

By: Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

Contractor:

ZACHRY INDUSTRIAL, INC.

By:_____
Name: John B. Zachry
Title: Chief Executive Officer

CB&I INC.

By: _____
Name: Philip Asherman
Title: Chief Executive Officer

Acknowledged by Freeport LNG Expansion, L.P., but only for purposes of partially superseding the FEED Agreement pursuant to Section 21.1.

FREEPORT LNG EXPANSION, L.P.

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

[Signature Page Continues]

Acknowledged by FLIQ Common Facilities, LLC, but only for purposes of: (i) having the right, but not the obligation, to make payments to Contractor pursuant to Section 7.14, (ii) taking title to the Work pursuant to Section 8.1, (iii) gaining rights in Work Product related to the Common Development Work pursuant to Section 10.1, and (iv) granting Contractor a license in certain Work Product pursuant to Section 10.3.

FLIQ COMMON FACILITIES, LLC

By Freeport LNG Expansion, L.P., its sole member

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

EXHIIBIT 8

Proof of Claim No. 1500

Your claim can be filed electronically on Verita's website at https://www.veritaglobal.net/zhi

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

United States Bankruptcy Court for the Southern District of Texas, Houston Division

Indicate Debtor against which you assert a claim by checking the appropriate box below. (**Check only one Debtor per claim form.**)

☐ Zachry Holdings, Inc. (Case No. 24-90377)	☐ Zachry Constructors, LLC (Case No. 24-90384)	☐ Zachry Maintenance Services, LLC (Case No. 24-90395)
☐ Computer Simulation & Analysis, Inc. (Case No. 24-90391)	☐ Zachry Engineering Corporation (Case No. 24-90379)	☐ Zachry Nuclear Construction, Inc. (Case No. 24-90388)
☐ J.V. Industrial Companies, LLC (Case No. 24-90396)	☐ Zachry Enterprise Solutions, LLC (Case No. 24-90386)	☐ Zachry Nuclear Engineering, Inc. (Case No. 24-90390)
☐ JVIC Fabrication, LLC. (Case No. 24-90393)	☐ Zachry EPC Holdings, LLC (Case No. 24-90378)	☐ Zachry Nuclear, Inc. (Case No. 24-90389)
☐ Madison Industrial Services Team, LLC (Case No. 24-90397)	☐ Zachry High Voltage Solutions, LLC (Case No. 24-90381)	☐ Zachry Plant Services Holdings, Inc. (Case No. 24-90392)
☐ Moss Point Properties, LLC (Case No. 24-90387)	☐ Zachry Industrial Americas, Inc. (Case No. 24-90394)	☐ ZEC Michigan, Inc. (Case No. 24-90383)
☐ UE Properties, Inc. (Case No. 24-90382)	☒ Zachry Industrial, Inc. (Case No. 24-90385)	☐ ZEC New York, Inc. (Case No. 24-90380)

Modified Official Form 410

Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed, May 21, 2024.

Part 1: Identify the Claim

1. **Who is the current creditor?**

FLNG Liquefaction 3, LLC
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☒ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

(see addendum for full notice list)

Where should notices to the creditor be sent?

FLNG Liquefaction 3, LLC
Name
333 Clay Street, Suite 5050
Number Street
Houston, TX 77002-4173
City State ZIP Code
United States of America
Country
Contact phone 713-980-2888
Contact email sottis@freeportlng.com

Where should payments to the creditor be sent? (if different)

Name
Number Street
City State ZIP Code
Country
Contact phone _____
Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☒ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: **Give Information About the Claim as of the Date the Case Was Filed**

6. **Do you have any number you use to identify the debtor?**

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ Undetermined. **Does this amount include interest or other charges?**

☐ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

If applicable, the claim must include information regarding payment received from any third party on account of, in connection with, or otherwise relating to the claim. Please list such information in the supporting documentation to the claim.

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Breach of contract action - see attached addendum

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

9. **Is all or part of the claim secured?**

☒ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☒ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☒ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/13/2024
MM / DD / YYYY

Shaw Ottis
Digitally signed by Shaw Ottis
Date: 2024.09.13 14:49:34 -05'00'
Signature

Print the name of the person who is completing and signing this claim:

Name: Shaw (First name) Christopher (Middle name) Ottis (Last name)

Title: SVP, General Counsel & Secretary

Company: FLNG Liquefaction 3, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 333 Clay St., Suite 5050
Number Street

Houston (City) TX (State) 77002 (ZIP Code) USA (Country)

Contact phone: 713-980-2894 Email: sottis@freeportlng.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*,[1]	Case No. 24-90377 (MI)
Debtors.	(Jointly Administered)

ADDENDUM TO PROOF OF CLAIM OF FLNG LIQUEFACTION, LLC

FLNG Liquefaction 3, LLC ("FLNG 3") hereby submits this addendum to its Proof of Claim (the "Claim") against Zachry Industrial Inc. ("Zachry") and respectfully states as follows:

Background

1. On April 23, 2024, FLNG 3 and affiliated entities filed suit in the 133rd Judicial District Court of Harris County, Texas (the "State Court"), asserting a state law breach of contract claim against Zachry, CB&I, Inc., and Chiyoda International Corporation after discovering significant defects in the performance of their work on a natural gas liquefaction and liquified natural gas export facility, resulting in substantial costs, the shut-down of operations, and other damages (the "Facilities Defects Case"). **Exhibit B**.

2. On May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, jointly administered under Case No. 24-90377.

3. On July 31, 2024, Zachry removed the Facilities Defects Case from State Court to

[1] The debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/zhi. The Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. 1452(a).

4. On August 28, 2024, the Facilities Defects Case was referred to this Court.

5. FLNG 3's Claim against Zachry is predicated on its breach of contract claim asserted in the Facilities Defects Case, which in turn is predicated on Zachry's breach of various provisions under the *Fixed Price Separated Turnkey Agreement for the Engineering, Procurement, and Construction of the Freeport Train 3 Liquefaction Project by and between FLNG 3 Liquefaction, LLC as Owner and Zachry Industrial, Inc. and CB&I Inc. as Contractor* (the "EPC") dated March 24, 2015. *See* **Exhibit C**. The Facilities Defects Case is yet to be adjudicated and is currently pending under Civil Action No. 4:24-CV-2841. On information and belief, an adversary proceeding number has not yet been assigned.

6. Because of the voluminous nature of the documents supporting this Claim, the fact that such documents contain confidential or commercially sensitive information, and based on consent from the Debtors, not all such documents are annexed hereto. FLNG 3 has made or will make such documents available to the Debtors. Such documents will also be made available to the Official Committee of Unsecured Creditors upon written request and subject to appropriate confidentiality restrictions.

Reservation of Rights

7. FLNG 3 does not waive, and expressly reserves, (i) all rights and remedies at law or in equity that FLNG 3 has or may have against Zachry, any of the Debtors, any of their respective affiliates and subsidiaries, or any other person or entity who may be liable for all or part of the claims set forth herein; (ii) any obligation owed to FLNG 3 or any right to any security or to assert any security interest that may be determined to be held by FLNG 3; (iii) FLNG 3's right to have final orders in non-core matters, or core matters to which *Stern v. Marshall* applies, entered only

after *de novo* review by a United States District Court Judge; and (iv) any right to (a) withdraw the reference, or otherwise challenge the jurisdiction of the Court, with respect to the subject matter of the Claim, any objection or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 3, (b) assert that the reference has already been withdrawn with respect to the subject matter of the Claim, any objection or other proceeding commenced with respect thereto or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 3, or (c) seek adjudication of its Claim in any court of competent jurisdiction on any basis, including mandatory abstention, permissive abstention, or equitable remand.

8. The filing of this Claim is not, nor shall it be deemed or construed to be: (i) a waiver or release of any term or provision of any agreement between FLNG 3 and Zachry or any agreement governing the relationship between FLNG 3 and Zachry; (ii) an election of remedies or waiver of any past, present or future breaches of any agreement between FLNG 3 and Zachry or any agreement governing the relationship between FLNG 3 and Zachry; (iii) a waiver or limitation of any procedural or substantive rights of FLNG 3 or any procedural or substantive defenses to any claim that may be asserted against FLNG 3; (iv) a waiver or release of, or any other limitation on, FLNG 3's right to assert that any portion of the claims asserted herein or any other claims are entitled to priority, including, without limitation, under sections 503(b) and 507(a)(2) of the Bankruptcy Code; (v) a waiver of any right to claim specific assets; or (vi) a waiver or release of any lien or security interest. In addition, FLNG 3 reserves the right to withdraw this Claim in its entirety or with respect to any portion thereof for any reason whatsoever.

9. FLNG 3 expressly reserves the right to (i) amend, modify, update, or supplement the Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify, or correct amounts, to provide additional detail regarding the claims set forth

herein, to fix the amount of any disputed, contingent or unliquidated claim, or to assert any alternative theories or bases for recovery; (ii) file additional proofs of claim, administrative expense claims or requests for payment of any administrative expenses, or pleadings for additional claims that may be based on the same or additional documents; and (iii) assert any and all other claims, actions, defenses, setoffs, recoupments, rights, right of action, causes of action, claims or remedies of whatever kind or nature that it currently has, or may have in the future against the Debtors and/or any of their respective affiliates and subsidiaries, or any other person or entity (including, without limitation, guarantors, partners, officers, directors, and other creditors of the Debtors), at law or in equity, including, without limitation, administrative or other priority claims, lien rights, interests, and the right to assert claims that are otherwise warranted in any related actions. This Claim is filed without prejudice to the filing by FLNG 3 of additional proofs of claim or administrative expense claims with respect to any other liability or indebtedness of and/or equity interest in the Debtors.

10. FLNG 3 does not waive or release any of its rights to amounts due for any claim asserted herein by not ascribing a specific dollar amount thereto at this time, and FLNG 3 expressly reserves the right to amend or supplement this Claim if it deems it necessary or appropriate, to assert and state an amount for any such claim.

11. The Claim is not subject to objection, defense, setoff, recoupment, or counterclaim of any kind by the Debtors. FLNG 3 expressly reserves and does not waive any objections, defenses, rights of set-off or recoupment, or counterclaims, that it may possess. No judgment has been rendered on the Claim.

12. By filing this Claim, FLNG 3 does not consent to or submit itself to the jurisdiction of the Court for any purpose except in respect of the allowance of this Claim for any and all

amounts due in connection herewith.

Notices

13. All notices, communications, and distributions in respect of this Claim should be delivered to:

FLNG Liquefaction, LLC
333 Clay St., Suite 5050
Houston, TX 77002
Attention: Shaw Christopher Ottis
Phone: 713-980-2894
Email: sottis@freeportlng.com

And

Christopher Taylor
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2058
Email: ctaylor@kslaw.com

Mike Stenglein
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2003
Email: mstenglein@kslaw.com

Michael Fishel
King & Spalding LLP
1100 Louisiana, Suite 4100
Houston, TX 77002
Phone: (713) 276-7369
Email: mfishel@kslaw.com

EXHIBIT B

Case 24-03195 Document 1-2 Filed in TXSB on 12/06/24 Page 1 of 16
4/23/2024 10:57 AM
Marilyn Burgess - District Clerk Harris County
Envelope No. 86955386
By: Bernitta Barrett
Filed: 4/23/2024 10:57 AM

Cause No. _____

FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	**_____ JUDICIAL DISTRICT**
v.	§	
CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION	§	**HARRIS COUNTY, TEXAS**
Defendants.	§	

PLAINTIFFS' ORIGINAL PETITION

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, 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.

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III. DISCOVERY LEVEL

3. This case is intended to be conducted under Discovery Level 3 in accordance with Texas Rule of Civil Procedure 190.4.

IV. PARTIES

4. Plaintiff FLNG Liquefaction, LLC ("FLIQ1") is a Delaware limited liability company with its principal place of business in Houston, Texas.

5. Plaintiff FLNG Liquefaction 2, LLC ("FLIQ2") is a Delaware limited liability company with its principal place of business in Houston, Texas.

6. Plaintiff FLNG Liquefaction 3, LLC ("FLIQ3") is a Delaware limited liability company with its principal place of business in Houston, Texas.

7. Defendant CB&I Inc. ("CB&I") is a Texas corporation with its principal place of business in Houston, Texas. CB&I may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Zachry Industrial, Inc. ("Zachry") is a Delaware corporation with its principal place of business in San Antonio, Texas. Zachry may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Chiyoda International Corporation ("Chiyoda") is a Washington corporation with its principal place of business in Houston, Texas. Chiyoda may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

V. JURISDICTION & VENUE

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.020 because the written agreements at issue involve "major transactions" as defined

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under the statute, and the parties agreed to venue in Harris County. Specifically, the agreements at issue provide that each party "irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas."

11. This Court has subject matter jurisdiction over this dispute because the amount in controversy is within the jurisdictional limits of this Court.

12. This Court has personal jurisdiction over Defendants because they are citizens of Texas by virtue of having their principal places of business in Texas. Further, Defendants conduct business in Texas, including but not limited to, by entering into contractual relationships and performing work in Texas and maintaining offices and employees in Texas. Defendants have purposefully availed themselves of the benefits and protections of the State of Texas by establishing minimum contacts here, and this Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

VI. FACTUAL BACKGROUND

A. Freeport LNG's Quintana Island Facility

13. Freeport LNG Development, L.P. ("Freeport LNG") is one of the first and largest exporters of LNG. With its joint venture partners, Freeport LNG owns and operates an LNG facility located on Quintana Island near Freeport, Texas (the "LNG Facility").

14. The LNG Facility was previously an LNG import and regasification facility (the "Regas Facility") featuring two 160,000 cubic meter LNG storage tanks, a marine dock that could accommodate the largest LNG tankers in service, and an LNG vaporization system capable of producing over 2 billion cubic feet (Bcf) of gas per day. Construction on the Regas Facility started in 2005, and commercial operations began in 2008. However, by the time the import terminal commenced operations in 2008, the North American natural gas industry had begun to experience

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a sea change—the shale gas revolution.

15. In 2010, to take advantage of excess domestic natural gas reserves due primarily to improvements in extracting gas from shale, Freeport LNG began a project to transform the Regas Facility from an import terminal into a natural gas liquefaction and LNG export facility (as defined above, the "LNG Facility").

16. LNG is natural gas that is super-cooled to transform it from a gaseous state into a liquid for ease and safety of non-pressurized storage and transport. Natural gas is converted to a liquid in a liquefaction plant that performs a sequence of processes, which is often referred to as "liquefying" the natural gas. This liquefaction process takes place in processing units that are often referred to as "trains."

17. The LNG Facility, which currently has three liquefaction processing units, or trains, is the first world-scale electric-powered LNG plant in North America. Train 1 was commissioned and began commercial operations in December 2019. Train 2 and Train 3 commenced operations in January and May 2020, respectively. When operating at full capacity, the output from the Facility's three liquefaction trains is enough to decrease the United States trade deficit by 1-2% alone.

18. Each liquefaction train at the LNG Facility uses three General Electric 75 MW motors that power three propane and mixed-refrigerant compressors. The electric motors used at the LNG Facility were selected to allow Freeport LNG to comply with strict local air emissions standards and meet its production and export targets.

B. The EPC Contracts

19. FLIQ1, FLIQ2, and FLIQ3 are affiliates of Freeport LNG.

20. FLIQ1 developed the first LNG train ("Train 1"). FLIQ2 developed the second

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LNG train ("Train 2"), and FLIQ3 developed the third LNG train ("Train 3").

21. FLIQ1 and FLIQ2 selected CB&I and Zachry, through a joint venture arrangement, to provide all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 1 and Train 2 on a fixed price, turnkey basis.

22. On December 10, 2013, FLIQ1 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 1 EPC Contract").

23. Also on December 10, 2013, FLIQ2 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project ("Train 2 EPC Contract").

24. FLIQ3 selected CB&I, Zachry and Chiyoda, through a joint venture arrangement, to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 3 on a fixed price, turnkey basis.

25. On March 24, 2015, FLIQ3 entered into a Fixed Price Separated Turnkey Agreement with CB&I, Zachry, and Chiyoda for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 3 EPC Contract").

26. The pertinent provisions of the Train 1 EPC Contract, Train 2 EPC Contract, and Train 3 EPC Contract are virtually identical and are referred to collectively in this Petition as the EPC Contracts. CB&I, Zachry, and Chiyoda, as applicable, are referred to in the EPC Contracts collectively as "Contractor," and will be collectively referred to as "Contractor" in this Petition.

C. Defendants' Obligations Under the EPC Contracts

27. The EPC Contracts establish Contractor's substantive performance standards for the Work. Among other obligations, Defendants agreed to perform all engineering, design,

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manufacturing, and fabrication work for Trains 1, 2, and 3 in accordance with applicable codes and standards and in accordance with good engineering and construction practices.

28. Specifically, Section 2.5C of the EPC Contracts provides that:

> "***Contractor shall perform the Work in accordance*** with Applicable Law and ***Applicable Codes and Standards***, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work." (emphasis added).

29. Section 3.1A of the EPC Contracts provides that:

> "***the Work*** shall be performed on a turnkey basis and ***shall include*** all ***engineering***, ***procurement,*** construction, pre-commissioning, start-up and testing of the Train [1, 2, and 3] Expansion, all ***Equipment***, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, ***workmanship, inspection, manufacture***, ***fabrication***, installation, ***design***, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

30. Section 3.1A of the EPC Contracts further provides that:

> "***Contractor shall perform the Work in accordance with GECP***, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement." (emphasis added).

31. The EPC Contracts define "Good Engineering and Construction Practices" or "GECP" as:

> "***the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards*** employed by the liquefied natural gas engineering and construction industries with respect to: (i) the ***engineering, procurement,*** construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A." (emphasis added).

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32. Section 3.2A of the EPC Contracts provides that Contractor's specific obligations include to "***procure***, supply, transport, handle, properly store, ***assemble***, erect and install all ***Equipment***." (emphasis added).

33. Section 3.2B of the EPC Contracts provides that Contractor's specific obligations include to:

> "provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, ***inspection and quality control services required to ensure that the Work is performed in accordance herewith***." (emphasis added).

34. Section 3.2D of the EPC Contracts requires that the Contractor "perform shop and other inspections of the work of Subcontractors and Sub-subcontractors ***to ensure that such work meets all of the requirements of this Agreement***." (emphasis added).

35. Section 3.2R of the EPC Contracts requires that the Contractor "***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement***, including that specified in Section 3.3." (emphasis added).

36. Section 3.3A of the EPC Contracts provides that:

> "Contractor shall, as part of the Work, ***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement*** and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

37. Section 3.3C(6) of the EPC Contracts provides that:

> "Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and ***in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control***." (emphasis added).

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38. Section 3.3D of the EPC Contracts provides that:

> "***Contractor shall perform***, or cause to be performed, all design and ***engineering work in accordance with Applicable Law and Applicable Codes and Standards***, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law." (emphasis added).

39. Section 8.2B of the EPC Contracts provides that Contractor remains responsible for breaches of its obligations under the EPC Contracts following Substantial Completion:

> "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2, and 3] Expansion and each component thereof … after Substantial Completion of the Train [1, 2, and 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." (emphasis added).

40. Section 12 of the EPC Contracts establishes Contractor's Warranties for its Work. Specifically, under Section 12.1B of the EPC Contracts, Contractor warrants that the Work "including Equipment, and each component thereof" shall be:

> "1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;" "2. ***in accordance with all of the requirements of this Agreement***, ***including in accordance with GECP***, Applicable Law and Applicable Codes and Standards;" and "4. ***free from defects in design, material and workmanship***." (emphasis added).

41. Section 12.1C of the EPC Contracts provides:

> "Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; provided, however, ***Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement***, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as ***Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work***." (emphasis added).

42. Section 12.1C of the EPC Contracts further provides:

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> "All such [Subcontractor and Sub-subcontractor] warranties shall be ***deemed to run to the benefit of Owner*** and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be ***enforceable by Owner upon Substantial Completion***. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit ***direct enforcement by Contractor or Owner*** against any Subcontractor or Sub-subcontractor whose warranty is called for." (emphasis added).

43. Section 12.1C of the EPC Contracts also establishes that:

> "***Contractor is jointly and severally liable*** with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty."

44. Section 12.3 of the EPC Contracts establishes Contractor's obligation to perform Corrective Work during the Defect Correction Period, which is defined as the 18-month period following Substantial Completion. However, Section 12.3D of the EPC Contracts makes clear that Contractor remains responsible to Owner for failures to comply with its Warranties under the EPC Contracts:

> "Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the ***Defect Correction Period*** relates only to the specific obligation of Contractor to perform Corrective Work, and ***has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work***." (emphasis added)

D. Defects in the Trains' Motors

45. While the Project experienced Contractor execution delays and other difficulties, after Trains 1, 2, and 3 began commercial operations, no significant defects in Defendants' work were discovered after the expiration of the 18-month Defect Correction Period until recently.

46. On January 17, 2024, the Train 3 Propane Compressor 75 MW Motor ("75 MW Motor") tripped and remained offline, despite several attempts to restart it. Initial investigations indicated that the likely cause of the trip was an electrical fault within a non-accessible portion of

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the 75 MW Motor. A subsequent root cause analysis ("RCA") determined that the direct cause of the 75 MW Motor failure was an electrical short caused by loose hardware (bolts, nuts and washers) within the 75 MW Motor that dislodged from a protective panel where they were installed and fell into the 75 MW Motor windings.

47. Specifically, the RCA identified the following root causes of the loose hardware:

a. *Deficient bolt/washer/nut retention assembly design*: Design was not in accordance with manufacturer recommendations or Good Engineering and Construction Practices ("GECP"). Specifically, ***locking nuts were not used to ensure that the hardware remained tightened in place*** within the 75 MW Motor during normal operations within vibration integrity limits. Additionally, ***Nord-Lock washers were placed on only one side of the bolt step up***, which we understand ***is not in accordance with manufacturer recommendations*** that require a Nord-Lock washer on both the bolt and nut sides for proper fastening.

b. *Inadequate quality assurance/quality control during assembly*: There was ***defective workmanship during assembly, including the use of improper parts, as well as differing metals for similar parts***. For example, bolt assembly components in the 75 MW Motor were a mixture of stainless steel and carbon steel parts, and a large shim washer was found within the 75 MW Motor and is not an approved material in the bill of materials, nor is the use of shim washers part of the proper design of the bolt assembly. In addition, ***multiple bolts were identified as being inadequately torqued***.

48. Similar defects have been identified in two other Train 3 motors, which will also require repairs.

49. The RCA identified a separate Defect in the 75 MW motor that also requires repair in order to prevent premature failure in the future. Specifically, significant partial discharge was found on the cable bundles going from the stator to the motor termination boxes in the 75 MW motor. The cause of the discharge was determined to be the excessive length of the cables and the increased bend radius of the cabling. Cable sheath and insulation damage due to excess partial discharge was also found in the other Train 3 motors, requiring repairs to all three Train 3 motors before they could be placed back into service.

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50. The same 75 MW Motor are utilized in Trains 1 and 2 of the LNG Facility. Given the prevalence of the Defects in the Train 3 motors, Plaintiffs believed that it was likely that the motors in Trains 1 and 2 are affected by the same Defects.

51. As a result, Plaintiffs implemented enhanced monitoring of Trains 1 and 2 and planned to perform inspections of Trains 1 and 2 after the repairs to Train 3 were completed. However, the enhanced monitoring performed on the Train 1 and 2 motors identified an increase in partial discharge and current abnormalities in one of the Train 2 motors. As such, Train 2 was taken offline for inspection prior to the completion of the repairs to Train 3.

52. Inspections of the Train 2 motors revealed additional workmanship issues, even moreso than those found in the inspections of the Train 3 motors. Not only did all 6 bolt assemblies dislodge from the protective micarta panel (as they did in the damaged Train 3 motor), but the micarta panel itself partially separated due to an approximately two-foot long bolt assembly dislodging from the underside of the panel. While one of the two-foot long bolt assemblies remained in place, the other bolt assembly became fully dislodged from the protective panel and appears to have dropped into the rotor portion of the motor and sheared into numerous smaller pieces (which caused additional damage to the motor internals).

53. The inspection of the Train 2 motor also identified substantial damage to the insulation on the motor's stator. The preliminary boroscope inspection of Train 2's 12K-31 motor identified that some bolt assemblies have dislodged from the micarta panels.

54. Given the extent of the faulty workmanship and poor condition of the bolt assemblies and cabling supports identified in Train 2, Plaintiffs made the decision to take Train 1 offline immediately to mitigate any possibility of damage to the Train 1 motors.

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55. FLIQ3 has incurred damages, costs, losses, and expenses as a result of the failure of the 75 MW motor on Train 3 and Contractor's failure to comply with its obligations and Warranties under the EPC Contracts, including investigatory and repair costs, removal and transportation costs for the 75 MW motor to be taken from its installed location to and from the off-site facility for repairs, costs to install a spare 75 MW motor into Train 3, and other costs and expenses incurred by FLIQ3 as a result of the Defects. FLIQ3 also incurred additional damages, costs, losses and expenses to carry out preventative maintenance on the other Train 3 motors.

56. FLIQ1 and FLIQ2 have or will incur similar damages, costs, losses and expenses as a result of the Contractor's failure to comply with its obligations and Warranties under the EPC Contracts in connection with the motors on Trains 1 and 2.

57. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim.

58. All conditions precedent to filing this action have or will soon occur.

VII. CAUSES OF ACTION

A. Breach of the EPC Contracts

59. Plaintiffs incorporate and reallege the preceding allegations as if fully set forth below.

60. Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts.

61. Defendants have breached their substantive performance obligations under Articles 2 and 3 of the EPC Contracts, as well as their Warranty obligations under Article 12 of the EPC Contracts, by at least the following acts and omissions:

a. Contractor's deficient bolt/washer/nut retention assembly design and its

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inadequate quality assurance/quality control during assembly,

b. Contractor's excessive cable length and increased bend radius of cabling resulting in significant partial discharge on the cable bundles, and

c. Contractor's deficient bolt assemblies, causing the bolts to become dislodged from the micarta panels and separation of the micarta panels themselves.

62. Defendants' acts and omissions constitute a breach of their obligations under the EPC Contracts, including, *inter alia*, the obligations to:

a. perform engineering, design, manufacture and fabrication "in accordance with the requirements of this Agreement" under Section 3.1A;

b. "perform the Work in accordance with GECP" under Section 3.1A, which includes "reasonable and prudent practices, methods, skill, care, techniques and standards" for the engineering, design and construction of LNG facilities;

c. "procure" and "assemble, erect and install all Equipment" under Section 3.2A;

d. "provide … inspection and quality control services" under Section 3.2B;

e. inspect the Work of their Subcontractors and "ensure that such work meets all the requirements of this Agreement" under Section 3.2D;

f. "perform, or cause to be performed, all design and engineering Work in accordance with this Agreement" under Section 3.2R and the equivalent language of Section 3.3A;

g. comply with their Warranty that the Equipment and each component thereof

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shall be "new, complete and of suitable grade for the intended function and use in accordance with this Agreement" under Section 12.1B(1);

h. comply with their Warranty that the Equipment and each component thereof shall be "in accordance with all of the requirements of this Agreement, including in accordance with GECP" under Section 12.1B(2); and

i. comply with their Warranty that the Equipment and each component thereof shall be "free from defects in design, material and workmanship" under Section 12.1B(3).

63. Plaintiffs have been damaged and are entitled to recover all amounts caused by Defendants' breaches of the EPC Contracts.

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

65. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim. Pursuant to Texas Civil Practice & Remedies Code § 38.001, Plaintiffs are entitled to recover its reasonable and necessary attorneys' fees.

VIII. REQUEST FOR RELIEF

66. Plaintiffs respectfully requests that Defendants be cited to appear and answer, and that Plaintiffs be granted judgment including the following relief:

a. all damages caused by Defendants' breaches of the EPC Contracts;

b. pre-judgment and post-judgment interest at the highest allowable rate;

c. costs and reasonable and necessary attorneys' fees; and

d. all other relief to which Plaintiffs are entitled.

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Respectfully Submitted,

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EXHIBIT C

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

TABLE OF CONTENTS

RECITALS 11
Article 1 DEFINITIONS 12
Article 2 RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS 31
2.1 Status of Contractor 31
2.2 Key Personnel, Organization Chart and Contractor Representative 31
2.3 Subcontractors and Sub-subcontractors 32
2.4 Subcontracts and Sub-subcontracts 33
2.5 Contractor Acknowledgements 35
Article 3 CONTRACTOR'S RESPONSIBILITIES 40
3.1 Scope of Work 40
3.2 Specific Obligations 41
3.3 Design and Engineering Work. 42
3.4 Spare Parts 45
3.5 Training Program in General 46
3.6 Environmental Regulations and Environmental Compliance 46
3.7 Contractor's Tools and Equipment 47
3.8 Employment of Personnel 47
3.9 Clean-up 49
3.10 Safety and Security 49
3.11 Emergencies 51
3.12 Approvals, Certificates, Permits and Licenses 51
3.13 Books, Records and Audits. 51
3.14 Tax Accounting 52
3.15 Temporary Utilities, Roads, Facilities and Storage 53
3.16 Subordination of Liens 53
3.17 Hazardous Materials 54
3.18 Quality Assurance 54
3.19 Reports and Meetings 55
3.20 Payment 57
3.21 Commercial Activities 57
3.22 Title to Materials Found 57
3.23 Survey Control Points and Layout 57
3.24 Cooperation with Others 57
3.25 Scheduled and Unscheduled Activities Involving Existing Facility, the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement, and the Train 2 Expansion After its Substantial Completion Under the Train 2 EPC Agreement 58
3.26 Responsibility for Property 59
3.27 Explosives 60
3.28 Nondiscrimination 60
3.29 Used or Salvaged Materials 60
3.30 Supervision of Owner's Operation Personnel 60
3.31 Use of Owner Equipment or Facilities 61
3.32 Compliance with Real Property Interests 62
Article 4 OWNER'S RESPONSIBILITIES 62

4.1 Payment 62
4.2 Permits 62
4.3 Access to the Site 62
4.4 Operation Personnel 62
4.5 Texas Sales and Use Taxes 63
4.6 Hazardous Materials 64
4.7 Legal Description and Survey 64
4.8 Owner Provided Items 64
Article 5 COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS 69
5.1 Commencement of Work 69
5.2 Limited Notice to Proceed/Notice to Proceed 69
5.3 Train 3 Project Schedule 71
5.4 CPM Schedule 72
5.5 Recovery and Recovery Schedule 75
5.6 Acceleration and Acceleration Schedule 77
Article 6 CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY 78
6.1 Change Orders Requested by Owner 78
6.2 Change Orders Requested by Contractor 79
6.3 Contract Price Adjustment; Contractor Documentation 81
6.4 Change Orders Act as Accord and Satisfaction 81
6.5 Timing Requirements for Notifications and Change Order Requests by Contractor 82
6.6 Adjustment Only Through Change Order 83
6.7 Force Majeure 84
6.8 Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law 85
6.9 Delay 86
6.10 Contractor Obligation to Mitigate Delay 87
6.11 Separated Contract Price Adjustments in Change Orders 87
6.12 Owner's Change Order Right to Undertake Full Scope of Expansion Facility Dock under this Agreement 87
Article 7 CONTRACT PRICE AND PAYMENTS TO CONTRACTOR 88
7.1 Contract Price 88
7.2 Contract Price Components 89
7.3 Interim Payments 89
7.4 Final Completion and Final Payment 91
7.5 Payments Not Acceptance of Work 91
7.6 Payments Withheld 92
7.7 Interest on Late Payments 93
7.8 Work Breakdown Structure 93
7.9 Payment Error 93
7.10 Currency 93
7.11 Allowance for Nickel in 9% Nickel Steel Plate 94
7.12 Conditions Precedent to Payment 94
7.13 Payments to Subcontractors 94
7.14 Retainage and Retention Letter of Credit 95

Article 8 TITLE AND RISK OF LOSS 96
8.1 Title 96
8.2 Risk of Loss 96
Article 9 INSURANCE AND LETTER OF CREDIT 98
9.1 Insurance 98
9.2 Irrevocable Standby Letter of Credit 99
9.3 Retention Letter of Credit 100
9.4 Financial Statements 102
Article 10 OWNERSHIP OF DOCUMENTATION 102
10.1 Ownership of Work Product 102
10.2 Return/Delivery of Certain Property 104
10.3 Contractor's License in Work Product 104
10.4 Owner Provided Documents 104
Article 11 COMPLETION MILESTONES 105
11.1 Notice and Requirements for RFSU and RLFC 105
11.2 Notice and Requirements for Substantial Completion 108
11.3 Owner Acceptance of RLFC and Substantial Completion 108
11.4 Minimum Acceptance Criteria as a Condition of Substantial Completion 109
11.5 Punchlist 113
11.6 Notice and Requirements for Final Completion 114
11.7 Partial Occupancy 114
11.8 Operations Activities 115
11.9 LNG Tankers Calling on the Facility 115
11.10 Long-Term Obligations 116
Article 12 WARRANTY AND CORRECTION OF WORK 116
12.1 Warranty 116
12.2 Correction of Work Prior to Substantial Completion 117
12.3 Correction of Work After Substantial Completion 119
12.4 Assignability of Warranties 120
12.5 Waiver of Implied Warranties 120
Article 13 GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES 120
13.1 Guarantee of Timely Completion 120
13.2 Delay Liquidated Damages 120
Article 14 CONTRACTOR'S REPRESENTATIONS 121
14.1 Corporate Standing 121
14.2 No Violation of Law; Litigation 121
14.3 Licenses 121
14.4 No Breach 122
14.5 Corporate Action 122
14.6 Financial Solvency 122
Article 15 OWNER'S REPRESENTATIONS 122
15.1 Corporate Standing 122
15.2 No Violation of Law; Litigation 122
15.3 Licenses 122
15.4 No Breach 123

15.5 Corporate Action 123
15.6 Financing and Payment 123
Article 16 DEFAULT, TERMINATION AND SUSPENSION 123
16.1 Default by Contractor 123
16.2 Termination for Convenience by Owner 126
16.3 Suspension of Work 126
16.4 Suspension by Contractor 127
16.5 Termination by Contractor 127
16.6 Termination Due to Extended Force Majeure 127
Article 17 INDEMNITIES 128
17.1 General Indemnification 128
17.2 Injuries to Contractor's Employees and Damage to Contractor's Property 129
17.3 Injuries to Owner's Employees and Damage to Owner's Property 129
17.4 Owner's Patent and Copyright Indemnification 129
17.5 Contractor's Patent and Copyright Indemnification 129
17.6 Lien Indemnification 130
17.7 Legal Defense 131
17.8 Enforceability 131
Article 18 DISPUTE RESOLUTION 132
18.1 Negotiation 132
18.2 Mediation 132
18.3 Litigation 133
18.4 Continuation of Work During Dispute 133
Article 19 CONFIDENTIALITY 134
19.1 Contractor's Obligations 134
19.2 Owner's Obligations 134
19.3 Definitions 135
19.4 Exceptions 135
19.5 Equitable Relief 135
19.6 Term 135
Article 20 LIMITATION OF LIABILITY 135
20.1 Contractor Aggregate Liability 135
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 Facility After Substantial Completion 136
20.3 Limitation on Contractor's Liability for Delay Liquidated Damages 137
20.4 Delay Liquidated Damages In General 137
20.5 Consequential Damages 138
20.6 Owner Separate Contracts 138
20.7 Continuing Rights and Obligations 138
20.8 Application of Liability Limitations 139
Article 21 MISCELLANEOUS PROVISIONS 139
21.1 Entire Agreement 139
21.2 Amendments 139
21.3 Joint Effort 140

21.4 Captions 140
21.5 Notice 140
21.6 Severability 141
21.7 Assignment 141
21.8 No Waiver 141
21.9 Governing Law 141
21.10 Successors and Assigns 141
21.11 Attachments and Schedules 142
21.12 Obligations 142
21.13 Further Assurances 142
21.14 Priority 142
21.15 Restrictions on Public Announcements 142
21.16 Parent Guarantee 143
21.17 Foreign Corrupt Practices Act 143
21.18 Language 143
21.19 Counterparts 143
21.20 Owner's Lender(s) 143
21.21 Joint and Several Liability 144
21.22 Coordination Between this Agreement, the Train 1 EPC Agreement and Train 2 EPC Agreement 144
21.23 Survival 146

LIST OF ATTACHMENTS AND SCHEDULES

ATTACHMENT A	Scope of Work and Design Basis
SCHEDULE A-1	Scope of Work
SCHEDULE A-2	Design Basis – Pretreatment Facility
SCHEDULE A-3	Design Basis – Liquefaction Facility
ATTACHMENT B	Contractor Deliverables
ATTACHMENT C	Payment Schedule and Work Breakdown Structure Form
SCHEDULE C-1	Payment Milestone Schedule
SCHEDULE C-2	Maximum Cumulative Payment Schedule
SCHEDULE C-3	Form of Work Breakdown Structure
ATTACHMENT D	Form of Change Order
SCHEDULE D-1	Change Order Form
SCHEDULE D-2	Unilateral Change Order Form
SCHEDULE D-3	Contractor's Change Order Request Form
SCHEDULE D-4	Pricing for Change Orders
ATTACHMENT E	Train 3 Project Schedule, Schedule Milestones and Delay Liquidated Damages
ATTACHMENT F	Key Personnel and Contractor's Organization
ATTACHMENT G	Approved Subcontractors and Sub-subcontractors
ATTACHMENT H	Notice to Proceed Forms
SCHEDULE H-1	Form of Limited Notice to Proceed
SCHEDULE H-2	Form of Notice to Proceed
SCHEDULE H-3	LNTP No. 1
ATTACHMENT I	Form of Contractor's Invoices
SCHEDULE I-1	Form of Contractor's Interim Invoice

SCHEDULE I-2	Form of Contractor's Final Invoice
ATTACHMENT J	Health, Safety, Security and Environmental Management Plan
ATTACHMENT K	Form of Lien and Claim Waivers
SCHEDULE K-1	Contractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-2	Contractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-3	Subcontractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-4	Subcontractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-5	Contractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-6	Contractor's Conditional Claim Waiver and Release on Final Payment
SCHEDULE K-7	Subcontractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-8	Subcontractor's Conditional Claim Waiver and Release on Final Payment
ATTACHMENT L	Form of RFSU Certificate
ATTACHMENT M	Form of Substantial Completion Certificate
ATTACHMENT N	Form of Final Completion Certificate
ATTACHMENT O	Insurance Requirements
ATTACHMENT P	Contractor Permits
ATTACHMENT Q	Owner Permits
ATTACHMENT R	Form of Irrevocable, Standby Letter of Credit and Retention Letter of Credit
SCHEDULE R-1	Form of Irrevocable, Standby Letter of Credit
SCHEDULE R-2	Form of Retention Letter of Credit

ATTACHMENT S	Performance Tests
ATTACHMENT T	Minimum Acceptance Criteria and other Performance Requirements
ATTACHMENT U	Form of Parent Guarantee
ATTACHMENT V	Pre-Commissioning, Commissioning, Start-Up, Training and Turnover Program
ATTACHMENT W	Capital Spare Parts List
ATTACHMENT X	Reporting Requirements
ATTACHMENT Y	Site
SCHEDULE Y-1	Existing Facility Site and Expansion Facility Site on Quintana Island
SCHEDULE Y-2	Train 1 Expansion Site, Train 2 Expansion Site, Train 3 Expansion Site and Other Expansion Facility Site Areas on Quintana Island
SCHEDULE Y-3	Train 1 Expansion Site, Train 2 Expansion Site, Train 3 Expansion Site and Other Expansion Facility Site Areas at the Pretreatment Facility Location
ATTACHMENT Z	Owner-Provided Items
ATTACHMENT AA	Form of RLFC Certificate
ATTACHMENT BB	Subsurface Documents
ATTACHMENT CC	Interfaces and Tie-Ins with Existing Facility, the Train 1 Expansion (after its substantial completion) and the Train 2 Expansion (after its substantial completion)
ATTACHMENT DD	[Not Used]
ATTACHMENT EE	Owner's Quality Management General Requirements
ATTACHMENT FF	Owner Provided List of Tax Exempt and Taxable Equipment
ATTACHMENT GG	Owner's Texas Direct Pay Exemption Certificate and Texas Sales and Use Tax Exemption Certificate
ATTACHMENT HH	Adjustment for Piles

ATTACHMENT II	[Not Used]
ATTACHMENT JJ	Form of Equipment Sharing Agreement
ATTACHMENT KK	Adjustment for 9% Nickel Steel
ATTACHMENT LL	Hydrotest Source Water

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 3 LIQUEFACTION PROJECT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 3 LIQUEFACTION PROJECT (this "***Agreement***"), dated as of the 24th Day of March, 2015 (the "***Effective Date***"), is entered into by FLNG Liquefaction 3, LLC, a Delaware limited liability company ("***Owner***"), and CB&I Inc., a Texas corporation, Zachry Industrial, Inc., a Delaware corporation, and Chiyoda International Corporation, a Washington corporation, with CB&I, Zachry and Chiyoda hereinafter collectively referred to as "***Contractor***", and with each of Owner and Contractor sometimes referred to individually herein as a "***Party***" and collectively as the "***Parties***".

RECITALS

WHEREAS, Owner's affiliate, Freeport LNG Development, L.P. ("***FLNG Development***") owns and operates an existing LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas (as defined in greater detail in Section 1.1, the "***Existing Facility***"); and

WHEREAS, Owner intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that will modify, and be interconnected with, the Existing Facility, Train 1 Expansion and Train 2 Expansion (as more fully described herein, the "***Train 3 Expansion***"). The engineering, procurement, construction, pre-commissioning, commissioning and testing of the Train 3 Expansion is hereby referred to as the "***Train 3 Project***"; and

WHEREAS, another affiliate of Owner, FLNG Liquefaction, LLC ("***FLIQ1***"), intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 3 Expansion, and will modify, and be interconnected with, the Existing Facility, the Train 2 Expansion and the Train 3 Expansion as well as share the Expansion Facility Common Systems with the Train 2 Expansion and Train 3 Expansion (as defined in greater detail in Section 1.1, the "***Train 1 Expansion***"); and

WHEREAS, another affiliate of Owner, FLNG Liquefaction 2, LLC ("***FLIQ2***") intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 3 Expansion, and will modify, and be interconnected with, the Existing Facility, the Train 1 Expansion and the Train 3 Expansion as well as share the Expansion Facility Common Systems with the Train 1 Expansion and the Train 3 Expansion (as defined in greater detail in Section 1.1, the "***Train 2 Expansion***"); and

WHEREAS, FLIQ1 intends to develop the Train 1 Expansion pursuant to a fixed price (separated for tax purposes), turnkey engineering, procurement and construction agreement entered into by FLIQ1 and T1/T2 EPC Contractor, dated December 10, 2013 (hereinafter, the "***Train 1 EPC Agreement***"); and

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 mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

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

"***Abandonment of the Train 3 Project***" means, prior to the acceptance by Owner of the Substantial Completion Certificate, Contractor's express refusal to perform substantially all home office activities and field construction operations in a manner that objectively manifests the intent by Contractor of not completing the Work under this Agreement. For the avoidance of doubt, Contractor shall not be alleged to have implicitly, expressly, or constructively abandoned the Train 3 Project or the Work as a result of Owner terminating Contractor pursuant to Section 16.1 for a Default, other than a Default 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

"controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality (including the Electric Reliability Council of Texas) 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 or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions of the Train 3 Project, as required under Attachment B.

"***Baseline CPM Schedule***" has the meaning set forth in Section 5.4A.

"***Books and Records***" has the meaning set forth in Section 3.13A.

"***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 United States of America.

"***Btu***" means a British thermal unit.

"***CAD***" has the meaning set forth in Section 3.3E.

"***Capital Spare Parts***" shall mean those spare parts listed in Attachment W for use after Substantial Completion which are to be included in the Work and the Contract Price as further set forth in Section 3.4B.

"***CB&I***" has the meaning set forth in Section 21.21.

"***CB&I Guarantor***" means Chicago Bridge & Iron Company N.V.

"***CenterPoint***" means CenterPoint Energy, or any successor entity thereto.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1A.

"***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 inventory, revenue, income, profits/losses or cost of finance or withholding Tax) that occurs and takes effect after the Effective Date.

"***Chiyoda***" has the meaning set forth in Section 21.21.

"***Chiyoda Guarantor***" means Chiyoda Corporation, a company registered under the laws of Japan.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Contract Price***" has the meaning set forth in Section 7.1. For purposes of clarity, the Contract Price shall equal the sum of the Train 3 Specific Contract Price Component and the Train 3 Specific Common Systems Contract Price Component.

"***Contract Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, its limited or general partners, its members and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, employees, representatives and invitees of each Person specified in clause (i) above. A "Contractor Indemnified Party" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work, except for any limitations specified in such notice.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

"***Contractor's Intellectual Property***" has the meaning set forth in Section 10.1B.

"***Corrective Work***" has the meaning set forth in Section 12.3.

"***CPM Schedule***" means the Baseline CPM Schedule (as it may be updated from time to time in accordance with this Agreement) or Monthly Updated CPM Schedules, as the context requires.

"***Cure Period***" has the meaning set forth in Section 16.1A.1.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1A.

"***Defect***" or "***Defective***" has the meaning set forth in Section 12.1A.

"***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.

"***Defective MCHE***" means, for purposes of Section 11.4B only, an MCHE that fails to achieve its performance guarantees as fully defined in the equipment purchase agreement for the MCHE between APCI and Contractor. For all other purposes within the Agreement, a Defective MCHE shall mean an MCHE that has a Defect as defined in Section 12.1A.

"***Delay Liquidated Damages***" shall mean any or all of the (a) RLFC Delay Liquidated Damages, (b) Substantial Completion Delay Liquidated Damages, (c) Record As-Built Delivery Requirement Delay Liquidated Damages or (d) MCHE Replacement Delay Liquidated Damages, as the context requires.

"***Design Basis***" means the basis of design and technical limits and parameters of the Expansion Facility as set forth in Schedules A-2 and A-3.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" has the meaning set forth in Section 18.1.

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***Equipment***" means all equipment and materials required for incorporation into the Train 3 Expansion.

"***Equipment Sharing Agreement***" means that certain Equipment Sharing Agreement, to

be executed by Owner, FLIQ CF, T1/T2 EPC Contractor, Contractor, FLIQ1, FLIQ2 and other signatories relating to the sharing of items of equipment among Owner, FLIQ CF, FLIQ 1, FLIQ2 and other signatories, which such Equipment Sharing Agreement shall be substantially in the form attached hereto as Attachment JJ.

"***Existing Facility***" means Owner's Affiliates' (including FLNG Development and its Affiliates) existing (i) LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas, (ii) Stratton Ridge natural gas metering station, (iii) forty-two inch (42") diameter natural gas pipeline connecting the Stratton Ridge natural gas metering station to the terminal on Quintana Island, and (iv) underground natural gas storage cavern located near Stratton Ridge and its related natural gas storage infrastructure and compression facilities.

"***Existing Facility Site***" means those areas where the Existing Facility is located as shown in greater detail in Schedule Y-1.

"***Expansion Facility***" means collectively, the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion, including all Expansion Facility Common Systems.

"***Expansion Facility Common Systems***" means those portions of the Expansion Facility which will be utilized by the Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Expansion Facility Dock, Train 3 LNG Storage Tank and certain modification to the Existing Facility. The Expansion Facility Common Systems will be designed, procured and constructed such that the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion may be operated simultaneously or individually at the design conditions set forth in the Train 1 EPC Agreement (with respect to the Train 1 Expansion), the design conditions set forth in the Train 2 EPC Agreement (with respect to the Train 2 Expansion) and this Agreement (with respect to the Train 3 Expansion).

"***Expansion Facility Dock***" means the LNG loading and unloading dock to be constructed as part of the Expansion Facility, including all marine piling, concrete structures, mooring dolphins, and topside Equipment, as further described in Attachment A of the Train 1 EPC Agreement and the Train 2 EPC Agreement.

"***Expansion Facility Dock Work***" means all work performed under the Train 1 EPC Agreement and the Train 2 EPC Agreement to design, engineer, procure, construct, pre-commission, commission and test the Expansion Facility Dock. The Expansion Facility Dock shall include all direct and indirect labor and materials provided to develop the Expansion Facility Dock, including, permanent materials, bulks and commodities, subcontractor and sub-subcontractor supplies and services, construction equipment, supplies, small tools, scaffolding, spare parts, pre-commissioning, commissioning and start-up activities, home office services, project management services, temporary facilities, training, general site services and supplies, temporary utilities, security, and subcontractor and sub-subcontractor support, all to the extent necessary for the development of the Expansion Facility Dock as part of the Expansion Facility.

"***Expansion Facility Site***" means those areas comprised of the Train 1 Expansion Site, Train 2 Expansion Site, Train 3 Expansion Site and other Expansion Facility Site areas as shown in greater detail in Attachment Y.

"***Facility***" means both the Expansion Facility and the Existing Facility.

"***FEED Agreement***" means the Front End Engineering Design Services Agreement between Freeport LNG Expansion, L.P. and T1/T2 EPC Contractor, dated January 30, 2012.

"***FERC***" means the Federal Energy Regulatory Commission.

"***FERC Order***" means the Order Granting Authorization under Section 3 of the Natural Gas Act, issued by FERC to Owner in connection with the Expansion Facility, as may be amended or modified.

"***Final Completion***" means that all Work and all other obligations under the Agreement (except for those obligations that survive the termination or expiration of this Agreement, including obligations for Warranties, correction of Defective Work and those covered, without limitation, by Section 11.10), are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of RLFC and Substantial Completion; (ii) the successful achievement of the MCHE Power Performance Guarantee or, if the MCHE Power Performance Guarantee was not achieved but the Total Gas Horsepower (as determined in accordance with Attachments S and T) was equal to or less than 105% of the MCHE Power Performance Guarantee, the MCHE Power Performance Guarantee Liquidated Damages in accordance with Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (iii) the completion of all Punchlist items; (iv) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers in the forms of Schedules K-5 and K-6; (v) delivery by Contractor to Owner of all remaining documentation required to be delivered under this Agreement, including Owner's Confidential Information, test reports, and the documentation required under Attachment B and Attachment EE; (vi) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractor's personnel, supplies, waste, materials, equipment (except Equipment), rubbish, Hazardous Materials, and temporary facilities; (vii) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers from all Major Subcontractors in the forms in Schedules K-7 and K-8; (viii) if requested by Owner, fully executed Final Lien and Claim Waivers from Major Sub-subcontractors in a forms substantially similar to the forms in Schedule K-7 and K-8; and (ix) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 11.6, which Owner has accepted by signing such certificate.

"***Final Completion Certificate***" has the meaning set forth in Section 11.6.

"***Final Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors

in accordance with the requirements of Section 7.4, which shall be in the form of Attachment K, Schedules K-5, K-6, K-7 and K-8.

"***First RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***FLIQ CF***" means FLIQ Common Facilities, LLC.

"***FLIQ1***" has the meaning set forth in the Recitals.

"***FLIQ2***" has the meaning set forth in the Recitals.

"***FLNG Development***" has the meaning set forth in the Recitals.

"***Force Majeure***" means catastrophic storms (including ice storms) or flooding, lightning, tornadoes, hurricanes, named tropical storms, earthquakes and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, was not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship, (ii) changes in market conditions, (iii) late delivery or failure of materials, equipment (including Equipment) or supplies unless due to a Force Majeure event, (iv) strikes, or other similar labor actions of Contractor or its Subcontractors or Sub-subcontractors, except Subcontractors (or their associated Sub-subcontractors) providing the main cryogenic heat exchanger, refrigeration compressor packages, major inline cryogenic valves or non-U.S. liquefaction air coolers, *provided that* with respect to the foregoing excepted Subcontractors and Sub-subcontractors, Contractor's relief for such strikes or other similar labor actions shall be limited to an extension to the Guaranteed Substantial Completion Date and the Required Final Completion Date pursuant to Section 6.8A.1 (and does not include adjustments to the Contract Price pursuant to Section 6.8A.2(b)), (v) unavailability of laborers, Subcontractors or Sub-subcontractors, or (vi) climatic conditions (including rain, snow, wind, temperature and other weather conditions), tides, and seasons, regardless of the magnitude, severity, duration or frequency of such climatic conditions, tides or seasons, *provided that* such climatic conditions, tides and seasons do not include catastrophic storms (including ice storms) or floods, lightning, tornadoes, hurricanes, named tropical storms or earthquakes meeting the requirements of a Force Majeure, or (vii) nonperformance or delay by Contractor or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay is otherwise caused by a Force Majeure.

"***Fourth RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards employed by the liquefied natural gas engineering and construction industries with respect to: (i) the engineering, procurement, construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A. For clarification, GECP does not necessarily require compliance with the World Bank's noise guidelines, but Contractor shall nevertheless comply with noise levels and guidelines required by Permits, Applicable Law and Applicable Codes and Standards.

"***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.

"***Gross Negligence or Willful Misconduct***" shall have the meanings as determined under the governing law of this Agreement as set forth in Section 21.9.

"***Guaranteed Record As-Built Delivery Date***" has the meaning set forth in Section 3.3F.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3A.

"***Guarantor***" means CB&I Guarantor, Zachry Guarantor and Chiyoda Guarantor

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***IFC***" has the meaning set forth in Section 5.4A.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Intellectual Property Rights***" means patents, utility models, registered designs and models, trademarks, trade secrets, service marks, copyrights, applications for any of the foregoing and rights to apply for any of the foregoing, proprietary information and know-how, whether patentable or not, and any similar right.

"***Interim Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.3C, which shall be in the form of Attachment K, Schedules K-1, K-2, K-3 and K-4.

"***Investment Grade***" has the meaning set forth in Section 9.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.3 for a progress payment and pursuant to Section 7.4 for final payment, which invoice shall be in the form of Schedule I-1 for progress payments and Schedule I-2 for final payment.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2A.

"***Labor and Skills Price***" has the meaning set forth in Section 7.1C.

"***Lender***" means any entity or entities providing temporary or permanent debt financing for the Expansion Facility.

"***Letter of Credit***" has the meaning set forth in Section 9.2.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 3.3B.

"***LNG***" means liquefied Natural Gas.

"***LNG Evacuation Requirement***" has the meaning set forth in Section 4.8D.

"***LNG Production Rate***" means the average hourly LNG rundown rate over the 72-hour LNG Production Rate Performance Test measured at the outlet of the LNG liquefaction unit (at the final flow measuring device downstream of the MCHE prior to entering the common rundown header). The LNG Production Rate shall be established in a continuous 72-hour LNG Production Rate Performance Test without any process trips.

"***LNG Production Rate MAC***" means the Train 3 Expansion is capable of achieving an average (continuous, without any process trips) hourly LNG rundown rate equivalent to 566.8 metric tonnes per hour, when processing natural gas at the condition and of the composition defined in the design case (average gas) at an ambient Site temperature of 71 degrees Fahrenheit during the 72-hour LNG Production Rate Performance Test.

"***LNG Production Rate Performance Test***" has the meaning set forth in Attachment S.

"***LNG Tanker***" means any ocean-going vessel used by Owner, a customer of the Facility or their designee for the transportation of LNG.

"***LNTP No. 1***" has the meaning set forth in Section 5.2A.1.

"***Major Subcontract***" means either (i) any Subcontract having an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (ii) any Subcontract having an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or the Train 2 EPC Agreement or both, (iii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (iv) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or Train 2 EPC Agreement or both, or (vi) entered into with a Subcontractor for Work listed in Part II of Attachment G.

"***Major Subcontractor***" means the Subcontractors listed as such in Attachment G and, in addition, any Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means either (i) any Sub-subcontract having an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (ii) any Sub-subcontract having an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or the Train 2 EPC Agreement or both, (iii) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (iv) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or Train 2 EPC Agreement or both, or (vi) entered into with a Sub-subcontractor for Work listed in Part II of Attachment G.

"***Major Sub-subcontractor***" means the Sub-subcontractors listed as such in Attachment G and, in addition, any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Maximum Cumulative Payment Schedule***" has the meaning set forth in Section 7.3E.

"***MCHE***" means the main cryogenic heat exchanger for the Train 3 Expansion.

"***MCHE Power Performance Guarantee***" has the meaning set forth in Attachment T.

"***MCHE Power Performance Guarantee Liquidated Damages***" has the meaning set forth in Attachment T.

"***MCHE Replacement Delay Liquidated Damages***" has the meaning set forth in Section 11.4B.2.

"***MCHE Replacement Scenario***" has the meaning set forth in Section 11.4B.

"***MCHE Replacement Scenario Verification Notice***" has the meaning set forth in Section 11.4B.1.

"***Minimum Acceptance Criteria***" or "***MAC***" means the LNG Production Rate MAC, the Tank Heat Leak Rate MAC for the Train 3 LNG Storage Tank, and the Ship Loading Rate MAC for the Train 3 LNG Storage Tank, all as further specified in Attachment T.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 11.4A.

"***Minimum Acceptance Criteria Testing Conditions***" are the Performance Test conditions set forth in Attachment S.

"***MMBtu***" means one million (1,000,000) Btus.

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring, or an action taken, once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.19A.4.

"***Monthly Updated CPM Schedule***" has the meaning set forth in Section 5.4B.

"***Notice to Proceed***" or "***NTP***" has the meaning set forth in Section 3.3B.

"***NTP Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) Owner, its parent, its limited or general partners, its members, Lenders, any other Persons with an ownership interest in the Expansion Facility or the Existing Facility and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Taylor Auburg as the Owner Representative. Notification of a change in Owner Representative shall be provided in advance, in writing, to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.16.

"***Party***" or "***Parties***" means Owner and/or Contractor and their successors and permitted assigns.

"***Payment Milestone***" means a designated portion of the Work as shown the Payment Milestone Schedule.

"***Payment Milestone Schedule***" means the schedule set forth in Schedule C-1, which sets out the payments to be paid based on completion of the Payment Milestones.

"***Performance Guarantee***" means the MCHE Power Performance Guarantee, as further set forth in Attachment T.

"***Performance Liquidated Damages***" shall mean the MCHE Power Performance Liquidated Damages, as further set forth in Attachment T.

"***Performance Tests***" means those tests performed to determine whether the Minimum Acceptance Criteria and Performance Guarantee have been achieved for the Train 3 Expansion, which tests shall be set forth in Attachment S and, to the extent not specified therein, as developed in accordance with Section 11.2.

"***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.

"***Person***" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.

"***Piles***" has the meaning set forth in Section 2.5B.2(i).

"***Provisional Substantial Completion***" has the meaning set forth in Section 11.4B.6.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Facility, as more fully described in Section 11.5 of this Agreement.

"***Qualified Force Majeure Event***" has the meaning set forth in Section 6.7A.2(b).

"***Quality Management System***" means the system, including quality plans and procedures, used by Contractor to direct and control its organization with regard to quality, the requirements of which are set forth in Section 3.18 and Attachment EE.

"***Ready for Startup***" or "***RFSU***" means that all of the following have occurred with respect to the applicable system or subsystem of the Equipment for the Train 3 Project: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation, and pre-commissioning and commissioning checks and tests of all Equipment (including

all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) for such applicable system or subsystem of the Equipment to ensure that all such Equipment was fabricated, assembled, erected and installed and is capable of being properly operated, all within the requirements and specifications contained in this Agreement (and without damage to the Work, the Facility or any other property and without injury to any Person), all as set forth in greater detail in Attachment A and the RFSU checklists agreed by Owner and Contractor in accordance with Section 11.1A; (ii) Contractor and Owner have agreed upon an initial Punchlist of items as set forth in Section 11.5A and those Punchlist items necessary for achieving RFSU have been successfully completed by Contractor (including all A and B classified Punchlist items); (iii) Contractor has delivered to Owner an RFSU Certificate for the applicable system or subsystem in the form of Attachment L; (iv) Contractor has provided Owner with all documentation for RFSU, including the System Compilation Manuals, as required under Attachment B; (v) the requirements related to RFSU set forth in Attachment V (including the prestart-up safety review and walk-down between Owner and Contractor) have been achieved and the Owner approvals related thereto have been given; and (vi) the quality requirements of Attachment EE related to RFSU have been successfully completed and related documentation provided to Owner.

"***RFSU of the Train 3 Expansion***" shall mean that RFSU has been achieved for all systems and subsystems of the Train 3 Expansion.

"***Ready To Load First Cargo***" or "***RLFC***" means that all of the following have occurred with respect to the Train 3 Expansion: (i) the successful achievement of Ready For Start Up of all systems and subsystems of all Equipment; (ii) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment and all systems and subsystems of all Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up, to ensure that the Work (including all Expansion Facility Common Systems) and each component thereof was correctly fabricated, assembled, erected and installed, has been correctly integrated into the Existing Facility, the Train 1 Expansion and the Train 2 Expansion, and is capable of being operated within the requirements contained in this Agreement and without damage to the Work, the Facility, any other property or the environment and without injury to any Person, as set forth in greater detail in Attachment A; (iii) Contractor has successfully completed the process of drying out and purging all systems and subsystems; (iv) the Train 3 Expansion meets the additional requirements for RLFC set forth in Attachment A and Attachment V; (v) the Train 3 Expansion has liquefied natural gas into at least 150,000 m^3 of LNG meeting all specifications and requirements of this Agreement (other than the Minimum Acceptance Criteria and Performance Guarantees) and successfully transferred and stored such LNG into the Train 3 LNG Storage Tank; (vi) all LNG loading and unloading lines (and Equipment and systems related thereto) necessary for transfer of LNG from the Train 3 LNG Storage Tank to the Existing Facility's dock and the Expansion Facility Dock, have been cooled down and are ready for transfer of LNG to an LNG Tanker; (vii) Contractor has completed all Punchlist items necessary for achievement of RLFC pursuant to Section 11.5B and Contractor and Owner have agreed upon a revised and

updated Punchlist of items as set forth in Section 11.5B; and (viii) Contractor has delivered to Owner an RLFC Certificate in the form of Attachment AA and Owner has accepted such certificate by signing such certificate.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Delivery Requirement***" has the meaning set forth in Section 3.3F.

"***Record As-Built Delivery Requirement Delay Liquidated Damages***" has the meaning set forth in Section 13.2B.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications of the Train 3 Project showing the "as-built" conditions of the Train 3 Expansion, as required under Attachment B.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means that certain information provided by Owner, which is expressly identified in Attachment Z as being Rely Upon Information, that Contractor shall be entitled to rely upon in the performance of the Work under this Agreement.

"***Replacement Timeline***" has the meaning set forth in Section 11.4B.2.

"***Required Final Completion Date***" has the meaning set forth in Section 5.3B.

"***Retainage***" has the meaning set forth in Section 7.14A.

"***Retention Letter of Credit***" has the meaning set forth in Section 9.3.

"***RFSU Certificate***" has the meaning set forth in Section 11.1A.

"***RLFC Certificate***" is the Contractor certification for achievement of RLFC in the form set forth in Attachment AA.

"***RLFC Delay Liquidated Damages***" has the meaning set forth in Section 11.1D.1.

"***Schedule Milestones***" means those milestones for completion of certain portions of the Work as further set forth in Attachment E.

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Attachment A.

"***Second RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Senior Supervisory Personnel***" means the following positions of Contractor's project management team: (i) Project Executive, (ii) each Deputy Project Executive, (iii) Engineering Manager, (iv) Site Construction Director, (v) PTF Construction Manager, (vi) Commissioning & Start-up Manager, (vii) Health, Safety and Security Manager, (viii) Procurement Manager, (ix) Project Controls Manager and (x) QA/QC Manager.

"***Ship Loading Performance Test***" has the meaning set forth in Attachment S.

"***Ship Loading Rate MAC***" has the meaning set forth in Attachment S.

"***Site***" means the Expansion Facility Site and the Existing Facility Site together, as further described in Attachment Y.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work, or an agreement by T1/T2 EPC Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct contract with Contractor or T1/T2 EPC Contractor to manufacture or supply Equipment which is a portion of the Work, to lease equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or materials that is part of the Work. For the avoidance of doubt, such Person that has a contract with T1/T2 EPC Contractor shall be a Subcontractor under this Agreement only to the extent that such contract is for the Work under this Agreement.

"***Substantial Completion***" means that all of the following have occurred with respect to the Train 3 Expansion: (i) Ready For Start Up has been achieved for all systems and subsystems of Equipment for the Train 3 Expansion; (ii) RLFC has been achieved and the RLFC Certificate has been delivered by Contractor to Owner and Owner has accepted such certificate by signing such certificate; (iii) all Minimum Acceptance Criteria have been achieved; (iv) Contractor has completed all items on the Punchlist that are required to achieve Substantial Completion, and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5C; (v) any RLFC Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (vi) the Work and the Expansion Facility Common Systems have been completed (including training, manuals and the delivery of all documentation required for operation), except for Work on the Punchlist; (vii) Contractor has delivered to Owner the Substantial Completion Certificate in the form of Attachment M and as required under Section 11.2 and Owner has accepted such certificate by signing such certificate; (viii) the Train 3 Expansion has been integrated into the Existing Facility, the Train 1 Expansion, the Train 2 Expansion and all Expansion Facility Common Systems and is available for full commercial operation, including transporting LNG from the Train 3 Expansion to the Existing Facility LNG storage tanks and the Train 3 LNG Storage Tank and loading of LNG Tankers from the Existing Facility's dock and the Expansion Facility Dock, in accordance with the requirements of this Agreement; (ix) Contractor has obtained all Permits for the Train 3 Expansion required by Section 3.12; (x) Contractor has delivered to Owner fully executed Interim Lien and Claim Waivers in the forms of Schedules K-1 and K-2, fully executed Interim Lien and

Claim Waivers from all Major Subcontractors in the forms of Schedules K-3 and K-4 and, if requested by Owner, fully executed Interim Lien and Claim Waivers from all Major Sub-subcontractors substantially in the forms of Schedules K-3 and K-4, covering all Work up to the date of Substantial Completion; (xi) Contractor has assigned to or provided Owner with all Warranties related to the Work to the extent Contractor is obligated to do so pursuant to this Agreement; (xii) Contractor has delivered all documentation to Owner which it is required under the Agreement to provide at or prior to Substantial Completion pursuant to Attachment B; and (xiii) the quality requirements of Attachment EE related to Substantial Completion have been successfully completed and related documentation provided to Owner.

"***Substantial Completion Certificate***" is the Contractor certification for achievement of Substantial Completion in the form set forth in Attachment M.

"***Substantial Completion Delay Liquidated Damages***" has the meaning set forth in Section 13.2A.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Equipment which comprises a portion of the Work, to lease equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor, materials or equipment (including Equipment).

"***T1/T2 Common Systems***" means those portions of the Expansion Facility which will be utilized by the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion and which are designed, procured and constructed under the Train 1 EPC Agreement and the Train 2 EPC Agreement, all as further set forth in the Train 1 EPC Agreement and the Train 2 EPC Agreement.

"***T1/T2 EPC Contractor***" means a joint venture comprised of CB&I Inc., a Texas corporation, and Zachry Industrial, Inc., a Delaware corporation.

"***Tank Heat Leak Rate MAC***" has the meaning set forth in Attachment S.

"***Tank Heat Leak Rate Performance Test***" has the meaning set forth in Attachment S.

"***Tax Exempt Equipment***" has the meaning set forth in Section 4.5A.2.

"***Tax Exempt Equipment Price***" has the meaning set forth in Section 7.1A.

"***Taxable Equipment***" has the meaning set forth in Section 7.1B.

"***Taxable Equipment Price***" has the meaning set forth in Section 7.1B.

"***Taxes***" means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes (excluding any Texas state and applicable local sales and use taxes on Tax Exempt Equipment and Taxable Equipment), gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium, franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

"***Third Party Proprietary Work Product***" has the meaning set forth in Section 10.1B.

"***Third RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Train 1 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 1 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under the Train 1 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the T1/T2 Common Systems (including the Expansion Facility Dock and certain modifications to the Existing Facility) and other systems, all as further set forth in the Train 1 EPC Agreement.

"***Train 1 Expansion Site***" means those areas where the Train 1 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 2 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 2 Expansion***" means the facilities, and all appurtenances related thereto, to be designed, procured and constructed under the Train 2 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the T1/T2 Common Systems necessary to operate the Expansion Facility (including the Expansion Facility Dock and certain modifications to the Existing Facility) and all other systems, all as further set forth in the Train 2 EPC Agreement. For purposes of clarity, the Train 2 Expansion does not include any part of the Existing Facility (other than the Existing Facility modifications).

"***Train 2 Expansion Site***" means those areas where the Train 2 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 3 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under this Agreement in order to meet the Minimum Acceptance Criteria and Performance Guarantees and includes a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Train 3 Specific Common Systems (including the Train 3 LNG Storage Tank and certain

modifications to the Existing Facility) and other systems, all as further set forth in this Agreement (particularly Attachment A). For purposes of clarity, the Train 3 Expansion does not include any part of the Existing Facility.

"***Train 3 Expansion Site***" means those areas where the Train 3 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 3 LNG Storage Tank***" means the double walled, full containment LNG storage tank with nominal capacity of 160,000 cubic meters to be designed, procured and constructed in accordance with this Agreement, including the Drawings and Specifications referenced herein or developed hereunder.

"***Train 3 LNG Storage Tank Price***" means Two Hundred Thirty Seven Million Three Hundred Thirty Six Thousand Seven Hundred Sixteen U.S. Dollars ($237,336,716), as such value may be adjusted from time to time by Change Orders executed by the Parties in accordance with this Agreement.

"***Train 3 Specific Common Systems***" means those portions of the Work which will be utilized by the Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Train 3 LNG Storage Tank. The Train 3 Specific Common Systems will be designed, procured and constructed under this Agreement such that the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion may be operated simultaneously or individually at the design conditions set forth in this Agreement (with respect to the Train 3 Expansion), the design conditions set forth in the Train 1 EPC Agreement (with respect to the Train 1 Expansion) and the design conditions set forth in the Train 2 EPC Agreement (with respect to the Train 2 Expansion). The Train 3 Specific Common Systems are listed in Sections 4.1.1 and 4.2.1 of Schedule A-1.

"***Train 3 Specific Common Systems Contract Price Component***" has the meaning set forth in Section 7.2A.

"***Train 3 Specific Contract Price Component***" has the meaning set forth in Section 7.2B.

"***Train 3 Specific Work***" means that portion of the Work that directly benefits, or is necessary for, the Train 3 Expansion only and does not provide any benefit, and is not otherwise necessary, for the Train 1 Expansion or the Train 2 Expansion. For clarity, the Train 3 Specific Work is all Work performed under this Agreement that is not associated with the Train 3 Specific Common Systems.

"***Train 3 Project***" has the meaning set forth in the Recitals.

"***Train 3 Project Schedule***" means the schedule of dates in which Contractor is required to achieve certain stages of completion of the Train 3 Expansion, including the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Guaranteed Record As-Built Delivery Date and the Schedule Milestones, as more particularly described in Sections 3.3F and 5.3 and Attachment E.

"***Unforeseen Subsurface Condition***" means any unforeseen (i) caverns or seismic faults, (ii) material subsurface obstructions, whether manmade or natural, or (iii) subsurface fossils, antiquities or other archeological finds, which, in the case of any of the above, were encountered by Contractor in the performance of the Work and (a) were not identified in any soils information or any other documents provided to Contractor by Owner, (b) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections, investigations or work performed by Contractor or any of its Subcontractors or Sub-subcontractors prior to the Effective Date and (c) with respect to (i) and (ii) only, are materially different from those that are reasonably expected to be encountered due to the nature of the Site.

"***Updated Contract Price and Train 3 Project Schedule Proposal***" has the meaning set forth in Section 5.2C.1.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Value of Foreign Currency***" has the meaning set forth in Section 7.10B.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 12.1A.

"***Weekly Progress Report***" has the meaning set forth in Section 3.19A.3.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Equipment, Train 3 Specific Common Systems, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, procurement, engineering, design, fabrication, erection, installation, manufacture, delivery, transportation, storage, construction, workmanship, labor, pre-commissioning, commissioning, inspection, training, Performance Tests, other tests, start-up and any other services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1A and any Corrective Work.

"***Work Breakdown Structure***" has the meaning set forth in Section 7.8.

"***Work Product***" has the meaning set forth in Section 10.1A.

"***30 Day Look-ahead Schedule***" has the meaning set forth in Section 5.4D.

"***Zachry***" has the meaning set forth in Section 21.21.

"***Zachry Guarantor***" means Zachry Holdings, Inc.

1.2 The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated

otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement.

ARTICLE 2
RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 **Status of Contractor**. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative**.

A. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization who will be assigned to the Work. For clarity, the Parties agree and acknowledge that the Key Personnel shall include the Senior Supervisory Personnel in addition to those personnel identified in Attachment F. Owner and Contractor acknowledge and agree the continuity of Key Personnel on this Train 3 Project is a material requirement of this Agreement and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work. Key Personnel shall be devoted full-time to the Work for the applicable period of time specified in Attachment F (provided that, Owner acknowledges that a Key Person performing functions related to Train 3 Expansion may also be performing work under a similar role under the Train 1 EPC Agreement and the Train 2 EPC Agreement), and Key Personnel shall not be removed or reassigned without Owner's prior written approval. All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and the resumes of professional education and experience for a minimum of two (2) candidates of suitable qualifications and experience. Should Owner approve of the replacement of a Key Person, Contractor shall allow for an overlap of two (2) weeks during which both the Key Person to be replaced and the Owner-approved new Key Person shall work together full time. The additional cost of any replacement of such Key Personnel and overlap time shall be entirely at Contractor's expense. Owner has the right, but not the obligation, to require Contractor to remove or cause to be removed

a Key Person who is not, in Owner's reasonable judgment, using GECP in the performance of the portion of the Work assigned to such Key Person.

B. ***Contractor Representative***. Contractor designates Chet Lloyd as the Contractor Representative. The Contractor Representative is a Key Person. The Contractor Representative under this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement shall be the same Person unless otherwise agreed by Owner in writing.

2.3 **Subcontractors and Sub-subcontractors**. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. Except as otherwise set forth in this Agreement, the provisions of Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the provisions of this Agreement. The provisions of any Subcontract or Sub-subcontract shall not relieve Contractor of any obligations to perform the Work or of its responsibility for each Subcontractor and Sub-subcontractor. NO SUBCONTRACTOR OR SUB-SUBCONTRACTOR IS INTENDED TO BE OR SHALL BE DEEMED A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly used by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor in the performance of the Work. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner or Lender to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel that are performing Work at the Site are to be instructed by Contractor in the terms and requirements of Owner-approved safety and environmental protection policies and procedures for Work at the Site and shall be expected to comply with such policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Contract Price or Train 3 Project Schedule as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall (i) create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or (ii) obligate Owner to pay or cause the payment of any amounts to any Subcontractor or Sub-subcontractor. For purposes of sales and use taxes for the State of Texas, all Subcontracts and Sub-subcontracts will be separated contracts pursuant to Tex. Tax Code § 151.056(b) and 34 Tex. Admin. Code Rule § 3.291(a)(13). In addition, to the extent that any Work under this Agreement will be performed under Subcontracts or Sub-subcontracts that also include scopes of work performed for the Train 1 Expansion and Train 2 Expansion, then such Subcontract and Sub-subcontract documentation (including scopes of work, cost and schedule-related information) shall be capable of being segregated into documentation relating to work specific to the Train 1 Expansion, work specific to the Train 2 Expansion, work common to the Train 1 Expansion and Train 2 Expansion, and the Work performed under this Agreement.

2.4 **Subcontracts and Sub-subcontracts**.

A. ***Approved List***. Part I of Attachment G sets forth a list of Subcontractors and Sub-subcontractors that Contractor and Owner have agreed are approved Subcontractors and Sub-subcontractors for the performance of that portion of the Work specified in Part I of Attachment G. As further set forth in Attachment G, a Subcontractor or Sub-subcontractor that is listed in Part I shall be utilized for the applicable portion of the Work unless Owner otherwise agrees in writing. Part II of Attachment G sets forth portions of the Work whose Subcontractors and Sub-subcontractors may not otherwise meet the value thresholds to be Major Subcontractors or Major Sub-subcontractors but that the Parties nevertheless agree that such Subcontractors and Sub-subcontractors are Major Subcontractors and Major Sub-subcontractors for purposes of performing such Work scopes. Approval by Owner of any Subcontractors or Sub-subcontractors does not relieve Contractor of any responsibilities under this Agreement.

B. ***Additional Proposed Major Subcontractors and Major Sub-subcontractors***. In the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor not listed on Attachment G that would qualify as a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids (with pricing redacted) of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fourteen (14) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor not listed on Attachment G. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor not listed on Attachment G for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4B expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fourteen (14) Days shall be deemed to be a rejection of such Major Subcontractor or Major Sub-subcontractor.

C. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Sections 2.4A or 2.4B, Contractor shall, prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing.

D. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts (which price may be redacted from such copies) within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts (which price may be redacted from such copies). Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement or approval of or acquiescence in a breach hereunder.

E. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors used in the performance of the Work, Contractor shall:

1. Include in each Major Subcontract and each Major Sub-subcontract a provision that each such Major Subcontract and Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2. Use reasonable commercial efforts to include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract; *provided, however*, as a minimum (and without relieving Contractor of its responsibility for each Major Subcontractor and Major Sub-subcontractor), Contractor must include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to substantially comply with and perform for the benefit of Owner the following requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract:

(i) For all Major Subcontractors and Major Sub-subcontractors: Article 10 and Article 19; Sections 2.5C, 3.3, 3.8, 3.13, 3.16, 3.18, 8.1, 16.2, 16.3, 17.1B, 21.15, 21.17 and 21.18; for Interim Lien and Claim Waivers in Section 7.3C and Final Lien and Claim Waivers in Section 7.4 (except Interim and Final Lien and Claim Waivers are not required from Sub-subcontractors who are Equipment suppliers or manufacturers that do not perform Work at the Site); and in substance the same as Section 2.3, including that there is no contractual relationship between Owner and any Major Subcontractor or Major Sub-subcontractor and that Owner has no

obligation to pay or cause to pay the payment to any Major Subcontractor or Major Sub-subcontractor.

(ii) For all Major Subcontractors and Major Sub-subcontractors performing Work at the Site: Article 17 (except for Section 17.1B) and Sections 3.6, 3.7, 3.10, 3.17, 3.24, 3.25, 3.27, 9.1, and Attachment O, in addition to the requirements and obligations set forth in Section 2.4E.2(i).

F. ***Owner's Right to Terminate***. Owner shall be entitled to require Contractor to immediately terminate any Subcontract or Sub-subcontract if any Subcontractor or Sub-subcontractor (as applicable) fails to comply in any material respect with the policies and procedures set forth in Attachment J, persists in any conduct which is prejudicial to safety, health or the protection of the environment, or fails to perform the Work in accordance with the safety and health rules and standards of Applicable Law. Contractor agrees that it shall have no right, and hereby waives any such right, to claim any increase to the Contract Price or an adjustment to the Train 3 Project Schedule arising out of or due to any such termination.

2.5 **Contractor Acknowledgements**.

A. ***The Agreement***. Prior to the execution of this Agreement, Contractor (through its joint venture parties' CB&I and Zachry) performed engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work and Design Basis listed in Attachment A, which was performed pursuant to the FEED Agreement. Owner has relied upon Contractor's expertise in developing and providing such information. Except with respect to Rely Upon Information identified in Attachment Z, Contractor hereby warrants and represents that such information and the attached Scope of Work and the Design Basis in Attachment A are accurate, adequate and complete for Contractor to engineer, procure, construct, pre-commission, commission, start-up and test a fully operational natural gas treatment, liquefaction, storage and terminal facility for the Contract Price, within the required times set forth in the Train 3 Project Schedule, and in accordance with all requirements of this Agreement, including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees, and that with respect to any information (if any) not so developed or provided by Contractor which is contained in or referenced in Attachment A, Contractor has examined all such information and has determined that it is accurate, adequate and complete. Accordingly, with the exception of Rely Upon Information set forth in Attachment Z, Contractor hereby agrees that it shall have no right to claim or seek an increase in the Contract Price or an adjustment to the Train 3 Project Schedule with respect to any incomplete, inaccurate or inadequate information or requirements that may be contained or referenced in Attachment A, and hereby waives and releases Owner from and against such claims. Owner makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any such information that is contained or referenced in Attachment A.

B. ***Conditions of the Site***.

1. In addition to Section 2.5A, Contractor further agrees and acknowledges that it has made all investigations and inspections that it deems necessary to perform the Work in accordance with the Train 3 Project Schedule, has conducted a review of all Site leases and easements that have been provided to Contractor by Owner, and is familiar with the climate, terrain and other difficulties that it may encounter in performing the Work in accordance with the Train 3 Project Schedule. Contractor has the experience, resources, qualifications and capabilities to perform the Work in accordance with the Train 3 Project Schedule. Except as provided for in Sections 2.5B.2 and 6.7A, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Contract Price or the Train 3 Project Schedule in respect of, any failure to timely perform the Work in accordance with the Train 3 Project Schedule as a result of any conditions at the Site or at any other location where the Work is performed, including: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions; (ii) climatic conditions, tides, and seasons (excluding Force Majeure events); (iii) availability of laborers, Subcontractors, Sub-subcontractors, equipment or any other items or supplies; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of equipment under the control of or provided by Contractor or its Subcontractors or Sub-subcontractors.

2. Contractor assumes all risks related to, and waives any right to claim an adjustment for, any and all subsurface conditions of whatever nature or condition, except as expressly provided in this Section 2.5B.2:

(i) *Piles.* The Contract Price and Train 3 Project Schedule are based on 6,162 total piles, having the composition, size and length shown in Section 1 of Attachment HH, supporting all portions of the Train 3 Expansion ("***Piles***"). In accordance with Section 2 of Attachment HH, Contractor shall conduct pile tests on an area by area basis to confirm the number, size, length and type of the Piles in accordance with Section 2 of Attachment HH. Based on the pile test report for an area, if the number of Piles in such area is different than that stated in this Section 2.5B.2(i) and Section 1 of Attachment HH, then a Change Order shall be executed adjusting the Contract Price and Train 3 Project Schedule as follows:

(a) If the Pile test report in an area shows that a change in the number of Piles is necessary to achieve the load bearing capacity noted in Section 1 of Attachment HH, the Contract Price shall be respectively increased or decreased by Change Order as provided in Section 3 of Attachment HH. This adjustment process shall be performed on an area-by-area basis as further set forth in Attachment HH;

(b) After conducting all of the Pile tests for the Site, if the total number of Piles for the Train 3 Expansion is either (i) ten percent (10%) or more greater than 6,162 Piles or (ii) ten percent (10%) or more less than 6,162 Piles, as a result of the cumulative findings of the Pile test reports described in clause (a) above, the Train 3 Project Schedule shall be evaluated and extended if and to the extent permitted under Section 6.8 (in the case of clause (i)) or decreased (in the case of clause (ii)); and

(c) Except as provided in clauses (a) and (b) above, Contractor is not entitled to any other adjustments to the Contract Price, Train 3 Project Schedule or any other Changed Criteria arising out of or relating to the Piles.

(ii) *Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.*

(a) *Identified Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* Prior to the Effective Date, Contractor received from Owner or developed under the FEED Agreement documentation showing the location of any subsurface utilities, subsurface obstructions, caverns, seismic faults and subsurface archeological finds, as described in more detail in Attachment BB. After the Effective Date but prior to performance of construction of any Work near any such identified subsurface utilities, obstructions, caverns, seismic faults or archeological finds, Contractor shall, exercising GECP, verify all locations of such identified subsurface utilities, obstructions, caverns, seismic faults and archeological finds, and Contractor shall be entitled to a Change Order adjusting the Contract Price and the Train 3 Project Schedule for any locations of Unforeseen Subsurface Conditions that are materially different than the information described in such documents and adversely affect Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, *provided that*, Contractor complies with the notice and Change Order request requirements set forth in Section 6.5, Contractor uses reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.8. After the commencement of construction, Contractor waives all risks and waives any right to claim an adjustment in the Contract Price or Train 3 Project Schedule with respect to any additional costs or delay incurred by Contractor or any Subcontractor or Sub-subcontractor during the construction of the Train 3 Expansion in

connection with any location of any subsurface utility, obstruction or archeological find inaccurately shown on such documents.

(b) *Unknown Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* If Contractor encounters an Unforeseen Subsurface Condition that adversely affects Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, Contractor shall be entitled to a Change Order adjusting the Contract Price and Train 3 Project Schedule, *provided that* Contractor complies with the notice and Change Order request requirements set forth in Section 6.5, Contractor uses all reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.8.

C. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards and represents that it can perform the Work at the Contract Price and within the Train 3 Project Schedule in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, (i) Contractor shall be entitled to a Change Order for Changes in Law (including Applicable Codes and Standards incorporated into Applicable Law) to the extent allowed under Section 6.2A.8, and (ii) the Parties shall follow the procedure in Section 2.5C.1 with respect to changes that occur after the Effective Date in Applicable Codes and Standards that are not incorporated into Applicable Law. Except for any Changes in Law for which Contractor is entitled to a Change Order under Section 6.2A.8, Contractor hereby waives any right to make any claim for adjustment of the Contract Price or the Train 3 Project Schedule in relation to any Changes in Law or change to any Applicable Codes and Standards.

1. If a change occurs in any Applicable Code and Standard after the Effective Date and such Applicable Code and Standard is not incorporated into any Applicable Law, Contractor shall give Owner written notice of such change in accordance with the requirements of Section 6.5, which such notice shall include a reasonably detailed description of the impact of the change (if any) on the Train 3 Project or any Changed Criteria. Within ten (10) Days after Owner's receipt of such notice, the Parties shall meet to discuss the implications (if any) of such change in Applicable Code and Standard and shall agree upon an appropriate course of action.

D. ***Three Train Expansion Facility***. Contractor acknowledges that certain joint venture members of Contractor, CB&I and Zachry, are performing the engineering,

procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 1 Expansion and the Train 2 Expansion in accordance with the Train 1 EPC Agreement and Train 2 EPC Agreement, respectively. Further, Contractor acknowledges and agrees that the Train 1 Expansion and the Train 2 Expansion (including the T1/T2 Common Systems) shall be designed, procured, constructed, commissioned and started-up in a manner that will accommodate, support and be capable of fully integrating the Train 3 Expansion, such that the T1/T2 Common Systems have sufficient capacity to support the full integration and operations of the Train 3 Expansion, including the Train 3 LNG Storage Tank, without further modifications to the Train 1 Expansion or Train 2 Expansion under this Agreement. Prior to the execution of this Agreement, Contractor has independently examined all information necessary to verify, and has so verified, that the Train 1 Expansion and the Train 2 Expansion is capable of accommodating, supporting and fully integrating the Train 3 Expansion and its operations in such manner. Owner has relied upon Contractor's expertise in examining and verifying such information. Accordingly, with the exception of Section 2.5D.1, Contractor (i) hereby agrees that it shall have no right to claim or seek an increase in the Contract Price, an adjustment to the Train 3 Project Schedule or a modification to any other Changed Criteria under this Agreement with respect to the Train 1 Expansion's or the Train 2 Expansion's (including the T1/T2 Common Systems) inability to accommodate or support the full integration and operations of the Train 3 Expansion, (ii) hereby waives and releases Owner from and against any and all such claims, including any claims that the Train 3 Expansion's is unable to meet the requirements of this Agreement (including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees), directly or indirectly, as a result of the design, procurement, construction, pre-commissioning, commissioning, start-up, testing or operations of either or both of the Train 1 Expansion and the Train 2 Expansion, and (iii) hereby agrees that it will perform under this Agreement any and all work, services and modifications (including design, engineering, procurement, pre-commissioning, commissioning, testing and startup) necessary so that T1/T2 Common Systems have sufficient capacity to support the Train 3 Expansion and enable the Train 3 Expansion to meet all requirements under this Agreement. Owner makes no guaranty or warranty, express or implied, as to the ability of the Train 1 Expansion or Train 2 Expansion (including the T1/T2 Common Systems) to accommodate or support the full integration and operation of the Train 3 Expansion.

1. If FLIQ1 or FLIQ2 issues a unilateral change order (as such term is defined under the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively), and the directive from such unilateral change order degrades the ability of the Train 1 Expansion or Train 2 Expansion (including the T1/T2 Common Systems) to accommodate or support the full integration and operations of the Train 3 Expansion, Contractor shall provide a written notice to Owner no later than ten (10) Days following issuance of such unilateral change order. Such written notice shall meet the requirements of Section 6.5, including a reasonably detailed description of the impact of such unilateral change order on the Train 3 Project or any Changed Criteria. If Contractor provides such written notice in accordance with this Section 2.5D.1 and

FLIQ1 or FLIQ2 subsequently fails to withdraw such unilateral change order (or alternatively, fails to modify such unilateral change order to remove those requirements identified by Contractor which cause such degradation of the Train 1 Expansion or Train 2 Expansion), Contractor shall be entitled to request a Change Order to the extent allowed under Section 6.8 and to the extent that such unilateral change order actually does degrade the ability of the Train 1 Expansion or Train 2 Expansion to accommodate or support the full integration and operations of the Train 3 Expansion. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 2.5D.1, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 3 Project Schedule, or any other Changed Criteria.

E. ***Hydrotest Source Water***. The Contract Price is based upon certain water quality assumptions for the hydrotest water to be used in the Train 3 LNG Storage Tank hydrotest and the amount, type and nature of the filtering, screening and conditioning of such hydrotest water. Attachment LL sets forth the assumed quality specifications and allows for a Change Order to adjust the Contract Price for any difference in cost attributable to differences in water quality requiring changes to the filtering, screening and conditioning of the water.

ARTICLE 3
CONTRACTOR'S RESPONSIBILITIES

3.1 **Scope of Work**.

A. ***Generally***. Subject to Section 3.1B, the Work shall be performed on a turnkey basis and shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 3 Expansion, all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, workmanship, inspection, manufacture, fabrication, installation, design, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees. Contractor shall be required to integrate and use Owner's operations and maintenance personnel (which are provided by Owner pursuant to Section 4.4) in Contractor's pre-commissioning, commissioning, testing and start-up efforts. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, with the explicit understanding that the Expansion Facility will operate as an LNG liquefaction, storage and export terminal facility meeting all requirements and specifications of this Agreement, and that the Existing Facility will continue to operate as an LNG receiving, storage and regasification facility. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required

and necessary to complete the Train 3 Expansion in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

B. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits that Owner has agreed to provide under Section 4.2; (ii) those requirements set forth under Sections 4.3, 4.4, 4.5 and 4.8; (iii) legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point pursuant to Section 4.7; and (iv) LNG Tankers for start-up, commissioning and Performance Tests in accordance with Section 11.1B.

3.2 **Specific Obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

A. procure, supply, transport, handle, properly store, assemble, erect and install all Equipment;

B. provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

C. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4;

D. perform shop and other inspections of the work of Subcontractors and Sub-subcontractors to ensure that such work meets all of the requirements of this Agreement;

E. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

F. pay all Contractor's Taxes incurred in connection with the Work in a timely fashion;

G. ensure that the Work is performed in accordance with the Train 3 Project Schedule;

H. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Train 3 Expansion, while supervising operations and maintenance personnel provided by Owner;

I. obtain all Permits required per Section 3.12;

J. provide reasonable, prompt assistance, information and documentation required or requested by Owner to enable Owner to obtain or modify the Permits listed in Attachment Q;

K. provide training and certification for Owner's operating and maintenance personnel per Section 3.5;

L. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

M. cooperate with and respond promptly to inquiries from Owner;

N. provide information and any other assistance reasonably requested by Owner with respect to Owner's contracting and interfacing with CenterPoint, including providing, on a timely basis, all information needed by CenterPoint regarding electrical demands of the Expansion Facility and specifying to CenterPoint all requirements of Contractor as well as review of any information provided by CenterPoint (including interface conditions) and attendance at meetings between Owner and CenterPoint;

O. be responsible for connecting the Train 3 Expansion (including designing, engineering and constructing the interconnections) to the permanent utilities to the extent set forth in Attachment A;

P. interface and cooperate with Owner's other contractors (which activities shall be coordinated by Owner; *provided that*, for the avoidance of doubt, "Owner's other contractors" shall not include the T1/T2 EPC Contractor, whose activities shall be coordinated by Contractor), and provide necessary Drawings, Specifications and other information for interconnections to the Train 3 Expansion, including interconnections for the natural gas feed pipeline for the natural gas pretreatment facility, the natural gas liquids pipeline and the natural gas vapor return pipeline;

Q. supply all initial permanent (*i.e.*, non-startup) fills; and

R. perform, or cause to be performed, all design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 **Design and Engineering Work**.

A. ***General***. Contractor shall, as part of the Work, perform, or cause to be performed, all design and engineering Work in accordance with this Agreement and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees.

B. ***Drawings and Specifications***. Upon receipt of a limited notice to proceed ("***Limited Notice to Proceed***" or "***LNTP***") or the full notice to proceed ("***Notice to Proceed***" or "***NTP***") issued in accordance with Section 5.2, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall conform and comply with the

requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

C. ***Review Process***.

1. *Over-the-Shoulder Review*. During the development of the Drawings and Specifications, Contractor shall provide Owner with the opportunity to perform "over-the-shoulder" reviews of the design and engineering in progress. Such reviews may be conducted at Contractor's office located in Houston, Texas, at any of its Subcontractor's or Sub-subcontractor's offices, or remotely by electronic internet access. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents determined by Owner.

2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment B.

3. *Review Periods*. Owner shall have up to ten (10) Business Days from its receipt of Drawings and Specifications submitted in accordance with Section 3.3C.2 to issue written comments, proposed changes and/or written approvals or disapprovals of the submission of such Drawings and Specifications to Contractor.

4. *No Owner Response*. If Owner does not issue any comments, proposed changes or written approvals or disapprovals within such time periods, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

5. *Disapproval by Owner*. In the event that Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in this Section 3.3C; *provided that* Contractor shall not be entitled to any extensions of time to the Train 3 Project Schedule, an adjustment to the Contract Price or any adjustment to any other Changed Criteria; *provided further, however*, to the extent Owner's disapproval of the Drawings or Specifications is due to one or more material changes by Owner to any such Drawings or Specifications, and not the result of such Drawings or Specifications non-compliance with the requirements of this Agreement, Contractor shall be entitled to a Change Order to the extent such Owner-

required change adversely affects the Train 3 Project Schedule and/or the Contract Price and Contractor complies with and meets the requirements under Article 6.

6. *Approval or Non-Response by Owner*. Upon Owner's written approval of the Drawings and Specifications, or in the event that Owner does not issue any comments, proposed changes or written approval or disapprovals of such Drawings and Specifications pursuant to Section 3.3C.4, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work; *provided that* Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control. Due to the limited time for Owner's review of Drawings and Specifications, Contractor's or its Subcontractors' or Sub-subcontractors' expertise in the Work and Owner's reliance on Contractor to prepare accurate and complete Drawings and Specifications, Contractor recognizes and agrees that Owner is not required or expected to make detailed reviews of Drawings and Specifications, but instead Owner's review of Drawings and Specifications may be of only a general, cursory nature. Accordingly, any review or approval given by Owner under this Agreement, or any non-response under Section 3.3C.4, with respect to any Drawings or Specifications shall not in any way be, or deemed to be, an approval of any Work, Drawings or Specifications not meeting the requirements of this Agreement, as Contractor has the sole responsibility for performing the Work in accordance with this Agreement.

D. ***Design Licenses***. Contractor shall perform, or cause to be performed, all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

E. ***CAD Drawings***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings and Specifications prepared by Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable AutoCAD.dwg (Version 10) or Intergraph 3D model in native format. Contractor shall use best efforts to also provide Drawings, including Record As-Built Drawings and Specifications, in other formats requested by Owner.

F. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep a redlined, marked, up-to-date set of As-Built Drawings and Specifications on

the Site as required under Attachment B. Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment B, which shall include delivery of final as-built drawing files in fully operable and editable AutoCAD.dwg (Version 10) format or other format as agreed by Owner for Record As-Built Drawings (the "***Record As-Built Delivery Requirement***"). The Record As-Built Delivery Requirement shall include Record As-Built Drawings and Specifications for the entire Train 3 Expansion (including all Train 3 Specific Common Systems). The Record As-Built Delivery Requirement shall be achieved by Contractor no later than ninety (90) Days after Substantial Completion of the Train 3 Expansion (the "***Guaranteed Record As-Built Delivery Date***").

G. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment B within and in accordance with the requirements and timing set forth in Attachment B.

3.4 **Spare Parts**.

A. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Train 3 Expansion to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving RLFC for the Train 3 Expansion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Contract Price, including the cost to procure such spare parts and the actual purchase price of such spare parts.

B. ***Capital Spare Parts***. The cost associated with all Work related to procuring the Capital Spare Parts identified in Attachment W (including the purchase price for such Capital Spare Parts) is included within the Contract Price. The Capital Spare Parts shall be delivered to the Site as a condition of Substantial Completion. For purposes of clarity, Capital Spare Parts may be utilized by Contractor prior to achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use.

C. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion (but only to the extent not taken into consideration by the Capital Spare Parts listed in Attachment W), Contractor shall deliver to Owner for Owner's written approval a detailed list of the manufacturer and Contractor-recommended spare parts for each applicable item of Equipment necessary for operating such Equipment (including components and systems of such Equipment) for two (2) years. Such list shall be provided to Owner for each item of Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract or Sub-subcontract for such Equipment. Owner shall have ten (10) Business Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract or Sub-subcontract. The cost associated with all Work related to the two (2) years' operating spare parts is included in the Contract Price, except for the actual

purchase price and delivery costs of such spare parts. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2A.6 to increase the Contract Price for the actual purchase price and delivery costs of such requested operating spare parts. For purposes of clarity, operating spare parts may be utilized by Contractor after achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use (including replacement of the used operating spare part at Contractor's expense).

3.5 **Training Program in General**. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion (but not to exceed the number of Persons listed in Attachment V) shall be given training designed and administered by Contractor at its expense, which shall be based on the program requirements contained in Attachment V and shall cover the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter reasonably required by Owner. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Expansion Facility during commissioning, testing and start-up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's or Sub-subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment V. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate training of Owner personnel hired in the future. Owner agrees that within forty-eight (48) hours after receipt of written notice from Contractor, it shall remove any employee or agent of Owner in the training program who, in Contractor's reasonable opinion, is unsafe, incompetent, careless, incapable of being trained, creates an unsafe or hostile work environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL HAVE NO LIABILITY AND OWNER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM OWNER TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY CONTRACTOR TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Owner shall replace any such employee at its sole cost and expense.

3.6 **Environmental Regulations and Environmental Compliance**. Without limitation of Section 3.1, Contractor is responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment and Applicable Law and in compliance with the policies and

procedures set forth in Attachment J. Contractor shall, at its sole cost and expense, dispose of all non-hazardous wastes and Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site (including any laydown areas), or generate from Hazardous Materials brought onto the Site during performance of the Work, which shall be disposed at off-Site disposal facilities approved by Owner and permitted to receive such wastes and Hazardous Materials. Contractor shall report to Owner, as soon as reasonably possible after having knowledge thereof and in no event later than one (1) Day after such occurrence, any violation of the foregoing. In addition to Section 17.1C, Contractor shall, at its sole cost and expense, remediate the release of any Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site, or generate from Hazardous Materials brought onto the Site, in violation of this Section 3.6.

3.7 **Contractor's Tools and Equipment**. Contractor shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such tools, machinery, structures, scaffolding or equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against Owner, Lender and any Owner Affiliates.

3.8 **Employment of Personnel**.

A. Contractor shall not employ, and shall require that any Subcontractor or Sub-subcontractor not employ, in connection with its performance under this Agreement anyone not skilled or qualified to perform the work assigned to such Person. Contractor agrees to promptly remove or reassign (or to require any Subcontractor or Sub-subcontractor to remove or reassign) from its services in connection with the Work any Person performing Work at the Site who does not meet the foregoing requirements. In addition, Contractor agrees that within forty-eight (48) hours after receipt of written notice from Owner, it shall remove from the Work any employee or agent of Contractor or of Contractor's Subcontractors or Sub-subcontractors who, in Owner's reasonable opinion, is unsafe, incompetent, careless, creates an unsafe or hostile work environment, persists in any conduct which is prejudicial to safety, health or the protection of the environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING

REQUIREMENTS FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Contractor shall replace any such employee at its sole cost and expense.

B. Contractor is responsible for maintaining labor relations in such manner that there is harmony among the employees of Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site. Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site shall conduct their labor relations in accordance with the recognized prevailing local area practices. Contractor shall inform Owner 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. Contractor further agrees to inform Owner, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations. In the event of any labor dispute which threatens to adversely affect the progress of the Work, Owner reserves the right to restrict additional hiring of workers and to suspend or terminate the Work as set forth in Sections 16.3 and 16.2, respectively.

C. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature (unless prohibited by Applicable Law), knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of Owner is determined to be a potential weapon; (ii) alcoholic beverages of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) any animal; (v) illegal or Owner-prohibited drugs of any nature; (vi) any drugs (whether prescription or non-prescription) which impair physical or mental faculties; or (vii) any prescription drugs without a valid prescription.

In connection with the enforcement of this Section 3.8C, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contactor shall provide Owner with copies of such drug screening tests (subject to any restrictions imposed by Applicable Law). For Contractor, Subcontractor, and Sub-subcontractor employees and agents working in D.O.T-regulated functions, the drug screening policies for such employees and agents shall meet the D.O.T. approved drug and alcohol program requirements. Further, for Contractor, Subcontractor and Sub-subcontractor employees and agents performing "covered functions" (as defined by 49 CFR Part 199), the drug screening policies for such employees and agents shall be compliant with 49 CFR Part 199. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8C, and shall promptly remove from the Work any employee or agent of Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8C. The provisions of Section 3.8A with regard to liability of any of the Owner Indemnified Parties and Contractor's release, indemnification, defense and hold harmless obligations shall apply to the removal of any such Person under this Section 3.8C.

3.9 **Clean-up**. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its Subcontractors or Sub-subcontractors. Without limitation of the foregoing or limiting Contractor's obligations, Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice. As soon as practicable after the completion of all Punchlist items, Contractor shall remove, at its own cost, all of its equipment, materials and other items not constituting (or intended to constitute) part of the Facility and remove all waste material and rubbish from the Site and restore the Site in accordance with all Permits and this Agreement. In the event of Contractor's failure to comply with any of the foregoing, Owner, having given Contractor five (5) Days prior notice, may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole option) all documented, direct costs associated with such removal and/or restoration, including costs associated with permitting, transportation and disposal at an authorized location.

3.10 **Safety and Security**. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval thirty (30) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Train 3 Expansion, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner after Work has commenced at the Site. Contractor further agrees to provide or cause to be provided necessary training and safety equipment to its employees, Subcontractors and Sub-subcontractors to ensure their compliance with the foregoing safety and health rules and standards and enforce the use of such training and equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law or by Owner and shall furnish Owner a Monthly summary of hours worked, injuries and labor hours lost due to injuries. Should Owner at any time observe Contractor, or any of its Subcontractors or Sub-subcontractors, performing the Work in an unsafe manner, or in a manner that may, if continued, become unsafe, then Owner shall have the right (but not the obligation) to require Contractor to stop the Work until such time as the manner of performing the Work has been rendered safe to the satisfaction of Owner; *provided, however*, that at no time shall Contractor be entitled to an adjustment of the Contract Price or Train 3 Project Schedule based on such work stoppage. Contractor shall be responsible for the security, fencing, guarding and lighting of the Train 3 Expansion and the Train 3 Expansion Site (except for those portions of the Train 3 Expansion Site falling within (a) the security perimeter of the Existing Facility, (b) the security perimeter of the Train 1 Expansion upon FLIQ1 (itself or through an Affiliate) taking over and maintaining site security for the Train 1 Expansion pursuant to Section 3.10 of the

Train 1 EPC Agreement, or (c) the security permiter of the Train 2 Expansion upon FLIQ2 (itself or through an Affiliate) taking over and maintaining site security for the Train 2 Expansion pursuant to Section 3.10 of the Train 2 EPC Agreement) until the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 3 Expansion. Upon the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 3 Expansion, the Train 3 Expansion Site shall be incorporated into the security perimeter of the Existing Facility, the Train 1 Expansion and the Train 2 Expansion maintained by Owner (itself or through its Affiliates) and thereafter access to, and Work therein, will be subject to Owner's (or its Affiliates') site security requirements and other obligations under this Agreement with respect to performing Work in the Existing Facility Site, the Train 1 Expansion Site and the Train 2 Expansion Site as further set forth in Attachment V and Section 3.10B below; *provided that*, Contractor shall be able to continue to utilize its permit-to-work system and safety requirements meeting the requirements of this Agreement until Substantial Completion of the Train 3 Expansion. Nothing in this Section 3.10 shall affect Contractor's status as an independent contractor.

A. All Work performed hereunder shall comply with the minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of facilities contained in Title 49, Code of Federal Regulations (C.F.R.), Parts 192 (to the extent applicable) and 193 and in Title 33, C.F.R. Part 127. Contractor shall comply with requirements of the Operator Qualification Program that are outlined in Sub-Part H of 49 C.F.R. Part 193 and Sub-Part G of C.F.R. Part 195, where applicable. The term "pipeline facilities" shall include new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas, including LNG, or treatment of gas during the course of transportation. The term "transportation of gas" shall include the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

B. Any Work performed on the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreeement) or the Train 2 Expansion Site (after FLIQ2, through itself or an Affiliate, takes over site security within the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) shall be conducted in accordance with the safety and security rules and procedures for the Existing Facility Site, the Train 1 Expansion Site and the Train 2 Expansion Site, as applicable. Each Contractor, Subcontractor or Sub-subcontractor personnel or representative needing access to the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over the site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) and the Train 2 Expansion Site (after FLIQ2, through itself or an Affiliate, takes over the site security within the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) shall also have valid Transportation Worker Identification Credentials (TWIC card). In addition, each such personnel or representative shall have a valid TWIC card when, and to the extent, all or portions of the Train 3 Expansion Site become regulated by the Transportation Security Administration, which, in any event, shall be no later than when such portion of the Train 3 Expansion Site is incorporated into the security perimeter of the Existing Facility Site, the Train 1 Expansion Site, and the Train 2 Expansion Site pursuant to

Section 3.10. Contractor acknowledges that it has fully investigated the access requirements and procedures for the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), and the Train 2 Expansion Site (after FLIQ2, through itself of an Affiliate, takes over site security within the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement), as well as its site safety and security rules and procedures, and has taken such requirements, rules and procedures into account in planning the Work to be performed in accordance with the Train 3 Project Schedule. As such, Contractor shall not be entitled to a Change Order to adjust the Contract Price or Train 3 Project Schedule as a result of its personnel's (or that of its Subcontractors or Sub-subcontractors) compliance with such access, safety and security requirements, rules and procedures.

3.11 **Emergencies**. In the event of any emergency endangering life or property in any way relating to the Work, the Facility or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be under no obligation to, take reasonable action as required to address such emergency. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability. Contractor shall reimburse Owner for the performance of any work or furnishing of any equipment or other items in connection with any emergency in an amount equal to the reasonable costs incurred by Owner in such performance of work or furnishing of equipment or other items.

3.12 **Approvals, Certificates, Permits and Licenses**. Contractor shall obtain the Permits listed in Attachment P as well as (i) those Permits for the Train 3 Project that are required to be maintained in Contractor's (or its Subcontractor's or Sub-subcontractor's) name and (ii) non-project specific Permits necessary for Contractor to do business as a contractor in the State of Texas performing work of the nature contemplated herein. If requested by Owner, Contractor shall provide to Owner within five (5) Days after such request copies of all applications made for any such Permits and all material correspondence received or sent in respect of such applications. Contractor shall provide Owner with copies of such Permits as soon as they are obtained. Contractor shall provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained by Owner in Attachment Q.

3.13 **Books, Records and Audits**.

A. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with generally accepted accounting principles applicable in the

United States 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. To the extent that these Books and Records include information and records related to the Train 1 Expansion and/or Train 2 Expansion, Contractor, to the extent practicable, shall maintain such Books and Records in a manner that would allow them to be segregated into Books and Records relating to the work under the Train 1 EPC Agreement, the work under the Train 2 EPC Agreement and the Work performed under this Agreement; *provided that*, notwithstanding the foregoing, Books and Records relating to all Work performed under any Change Order shall be segregated, as applicable, by the work performed under the Train 1 EPC Agreement and Train 2 EPC Agreement and the Work performed under this Agreement.

B. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records with respect to (i) any Drawings, Specifications or other technical documents required under this Agreement to be prepared, delivered or maintained by Contractor or any of its Subcontractors; (ii) any documents relating to safety, security, quality or Permits relating to this Agreement; and (iii) any amounts billed under unilateral Change Orders, or under cost reimbursable or unit price Change Orders; *provided*, *however*, that such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with the internal composition of any compensation that is fixed in amount hereunder (including the composition of any markups, unit rates or fixed percentages or multipliers specified in this Agreement). When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records during normal business hours, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Contractor shall bear, at its own cost and expense, all costs incurred by it in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions substantially similar to this Section 3.13 in all Major Subcontracts. The restrictions in this Section 3.13B to the audit rights of Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law, in discovery in any arbitration or litigation arising out of Article 18 or in any litigation or arbitration against Guarantor.

C. Contractor shall not, and shall provide that its Subcontractors, Sub-subcontractors and agents or employees of any of them shall not, without Owner's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee, officer or consultant of Owner or its Affiliates, (ii) favor employees, officers or consultants of same with gifts or entertainment of any significant cost or value, or (iii) enter into any business arrangements with employees, officers or consultants of same.

3.14 **Tax Accounting**. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and Contractor's prices to Owner for any Equipment installed on or ordered for the Train 3 Expansion and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of Owner's tax returns or other

tax documentation or the determination of Equipment that constitutes Tax Exempt Equipment listed in Attachment FF.

A. Contractor acknowledges that Owner is pursuing ad valorem tax abatements through the Texas Commission on Environmental Quality, and upon request Contractor shall provide documentation required or requested by the Texas Commission on Environmental Quality in order for Owner to perfect such abatement related to the cost of Equipment, including Equipment cost, cost of fabrication and design specifications, installation labor costs and overhead and other indirect costs. Documentation may consist of asset name or equipment reference number, a description of the asset, invoice copies showing Subcontractor name, invoice number, delivery date, and purchase amount. If reasonably requested by Owner, Contractor agrees to offer similar assistance to Owner toward any other federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF.

B. In the event that Contractor fails to provide the documentation described in Sections 3.14 and 3.14A, Contractor will be responsible to Owner for any resulting reduction in the tax benefit amount that Owner would otherwise be entitled to receive under the relevant federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF. Contractor shall be liable for and shall pay to Owner the amount of such reduction to the extent Owner was otherwise ready and capable of fulfilling all of Owner's compliance obligations and requirements with the applicable taxing entity in a timely fashion.

3.15 **Temporary Utilities, Roads, Facilities and Storage**. Contractor shall provide and pay for all utilities (*e.g.*, electricity (except as provided by Owner pursuant to Section 4.8B), water, communication, cable, telephone, waste and sewer), including all connections and substations, necessary for the performance of the Work, including installation, Permit and usage costs. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. Contractor shall provide Owner with office space in accordance with the requirements set forth in Attachment A at the time of Contractor's mobilization at the Site to accommodate Owner's Site representatives and support staff. Contractor shall provide Owner with all office space (as required by Attachment A), construction trailers, utilities, security, telephones, furnishings, and other temporary facilities required for their oversight of the Work, as set forth in more detail in Attachment A. All Equipment and other items comprising part of the Work stored at a location other than on the Site shall be segregated from other goods, and shall be clearly marked as "Property of FLNG Liquefaction 3, LLC."

3.16 **Subordination of Liens**. In consideration of ten and no/100 U.S. Dollars (U.S.$10) incorporated into the Contract Price and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor,

Contractor hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender or any lender of Owner's Affiliates, whether such lien in favor of such Persons is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender or any lender of Owner's Affiliates, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner's property and the Site are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 **Hazardous Materials**. Contractor shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Contractor may bring onto the Expansion Facility Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and the requirements specified in Attachment J, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials; *provided further, however*, if Contractor needs to bring any Hazardous Materials onto the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or its Affiliate, takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), or the Train 2 Expansion Site (after FLIQ2, through itself or its Affiliate, takes over site security of the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) for the performance of the Work, Contractor shall receive Owner's prior written approval (such approval not to be unreasonably withheld) before bringing such Hazardous Materials onto the Existing Facility Site, the Train 1 Expansion Site or the Train 2 Expansion Site, as applicable, and Contractor shall comply with Applicable Law, Applicable Codes and Standards, the requirements specified in Attachment J, and any safety or security rules or procedures for the Existing Facility Site, the Train 1 Expansion Facility or the Train 2 Expansion Facility regarding such Hazardous Materials, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials. If Contractor or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Site, and Contractor or any Subcontractor or Sub-subcontractor knows or reasonably suspects that such material is Hazardous Material, Contractor and its Subcontractors and Sub-subcontractors shall immediately stop Work in the affected area and notify Owner. If under such circumstances Contractor or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify Owner, Contractor shall be responsible and liable to Owner in accordance with Section 17.1C for all damages, costs, losses and expenses to the extent relating to such failure.

3.18 **Quality Assurance**.

A. No later than sixty (60) Days after the date Owner issues NTP, Contractor shall submit to Owner for its review and written approval, an Expansion Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's Quality Management System and Subcontractor source inspection plan as required by Attachment EE. No later than ninety (90) Days after the date Owner issues NTP, Contractor shall submit to Owner for its written approval, detailed construction

inspection and test plans and supporting construction procedures as required by Attachment EE. Prior to the commencement of the Work, detailed quality assurance and quality control procedures and plans applicable to the Work shall be issued to Owner in accordance with Attachment EE. Owner's review and approval of Contractor's quality plan, Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this Agreement. As part of the quality plan, the Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans, Contractor agrees that it shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including the Lender independent engineer's) review a copy of all such inspections.

B. Before proceeding with the Work, Contractor shall furnish satisfactory evidence as to the kind, quality, and quantity of all Equipment. Without prior written approval by Owner which specifically waives the requirements of this Agreement, Contractor shall not use any Equipment other than as specified in this Agreement. If Contractor wishes to modify the requirements contained herein, then it shall make written application to Owner for Owner's approval, in Owner's sole discretion, prior to performing any such Work. Such application shall (i) identify the requirements being modified, (ii) certify that the quality of the proposed substitute is equal to or better than that currently specified, and (iii) certify that the substitute is suited to the same use and capable of performing the same function as that specified. If the preceding requirements are not followed, then any substitution shall constitute a Contractor Default. All Equipment shall be fabricated, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions of the applicable Subcontractor or Sub-subcontractor.

3.19 **Reports and Meetings**.

A. ***Reports***. Contractor shall provide Owner with an electronic copy of progress reports and such other information as reasonably requested by Owner, including the following:

1. minutes for all status and other Train 3 Expansion-related meetings within five (5) Business Days following such meeting;

2. safety or environmental incident reports within three (3) Business Days after the occurrence of any such incident (including "near miss" incidents where no individual was injured or property was damaged) relating to the Work, except for any safety or environmental incident involving a significant non-scheduled event such as LNG or natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; *provided, however,* notification shall be

provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work;

3. weekly (or such duration as otherwise agreed by Owner in writing) progress reports for the Work ("***Weekly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X, which shall be provided one (1) Day prior to the weekly progress meeting and shall cover all activities up to the end of the previous week; and

4. Monthly progress reports for the Work ("***Monthly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X. Contractor shall provide the Monthly Progress Report no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall arrange for the electronic distribution of the Monthly Progress Report as Owner may reasonably request.

The Parties acknowledge that the Weekly Progress Reports and Monthly Progress Reports provided in accordance with this Section 3.19A shall include information for the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion (other than certain information, including information related to cost and Change Orders, which shall be reported separately in accordance with Attachment X).

B. ***Meetings***.

1. A weekly progress meeting shall occur every week at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior week. The meetings shall be attended by the Owner Representative, the Contractor Representative, the Owner planning and scheduling representative, the Contractor planning and scheduling representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

2. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior Month and to review the Monthly Progress Report for that Month with Owner. The Monthly progress meeting shall be attended by the Owner Representative, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

3. The Parties acknowledge that the weekly and monthly progress meetings held in accordance with this Section 3.19B shall include information related to the Train 1 Expansion, Train 2 Expansion, and Train 3

Expansion (other than certain information, including information related to cost and Change Orders, which shall be discussed separately in accordance with Attachment X).

3.20 **Payment**. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.21 **Commercial Activities**. Neither Contractor 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 Site or any other lands owned or controlled by Owner; *provided, however*, lunch wagons and vending machines may be permitted upon prior written approval by Owner.

3.22 **Title to Materials Found**. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by Owner. Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 **Survey Control Points and Layout**. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to Section 4.7. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control points provided by Owner, such control points shall be replaced by Contractor at Contractor's own expense and Contractor shall be liable to Owner for all other damages, costs, losses and expenses arising out of such relocation or destruction.

3.24 **Cooperation with Others**.

A. Subject to the provisions of this Agreement, including Section 4.3, Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. As such, but subject to the provisions of this Agreement (including Section 4.3), Owner reserves the right to require Contractor 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, *provided that*, but subject to Sections 21.22 and 3.24B, if Owner's requirement to reschedule the Work interferes with Contractor's performance of the Work, Contractor shall be entitled to a Change Order to the extent allowed under Section 6.8. For the avoidance of doubt, Contractor acknowledges that T1/T2 EPC Contractor (and its subcontractors, sub-subcontractors and other Persons under the control of T1/T2 EPC Contractor) will be working at the Site during the performance of this Agreement and, if T1/T2 EPC Contractor (or its subcontractors, sub-subcontractors or other Persons under the control of T1/T2 EPC Contractor) interferes with the Work or Contractor's use of certain facilities as a result of such concurrent activities, Contractor

shall have no right to seek an adjustment to the Contract Price, the Train 3 Project Schedule or any other Changed Criteria for any interferences to the Work or access to the Site that arise out of or results from any interference by the T1/T2 EPC Contractor (or its subcontractors, sub-subcontractors or other Persons under the control of T1/T2 EPC Contractor).

B. Contractor understands that Owner may choose to expand the Expansion Facility (beyond the current Scope of Work and this Agreement) under one or more separate agreements, including adding additional natural gas pretreatment and liquefaction units. Such other agreements may or may not involve Contractor and may be performed during the course of the completion of the Work covered under this Agreement. In the event Contractor is not participating in such separate agreement(s), Contractor agrees to cooperate with Owner's other contractor(s) so as not to materially interfere with such other contractor, and Owner agrees to require its other contractor to cooperate with Contractor so as not to materially interfere with Contractor. In the event Contractor does participate in any or all such separate agreements, Contractor acknowledges that any such work performed by Contractor shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 3 Project Schedule or any other Changed Criteria.

3.25 **Scheduled and Unscheduled Activities Involving the Existing Facility, the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement, and the Train 2 Expansion After its Substantial Completion Under the Train 2 EPC Agreement**.

A. ***Scheduled Activities***. Listed in Attachment CC is the Work (i) that is being performed on the Existing Facility Site, the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement) or the Train 2 Expansion Site (after substantial completion of the Train 2 Expansion under the Train 2 EPC Agreement) or (ii) which may interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement), the Train 2 Expansion (after it has achieved substantial completion under the Train 2 EPC Agreement) or the Existing Facility. No later than fourteen (14) Days prior to performing such Work, Contractor shall provide Owner with a written plan listing the Work to be performed and proposing in detail how Contractor intends that such Work will be performed to minimize, to the greatest extent reasonably possible, interference with the operation of the Train 1 Expansion, the Train 2 Expansion or the Existing Facility. The plan proposed by Contractor shall be the least disruptive to operations of the Train 1 Expansion, the Train 2 Expansion or Existing Facility, unless such plan is disproportionately expensive when compared to the impact on such operations. Prior to the execution of such Work, Owner and Contractor shall mutually agree upon a proposed plan for Contractor to execute such Work.

B. ***Unscheduled Activities***. It is the Parties' intent that, except for the activities listed in Attachment CC, the performance of the Work and Contractor's other obligations under this Agreement will not (i) be performed on the Existing Facility Site, the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under

the Train 1 EPC Agreement), or the Train 2 Expansion Site (after substantial completion of the Train 2 Expansion under the Train 2 EPC Agreement) or (ii) interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement), the Train 2 Expansion (after it has achieved substantial completion under the Train 2 EPC Agreement) or the Existing Facility. During the performance of the Work, should a situation arise that requires additional Work to be performed on the Existing Facility Site, the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement), the Train 2 Expansion Site (after substantial ompletion of the Train 2 Expansion under the Train 2 EPC Agreement) or which Contractor reasonably believes has the potential of interfering with the operation of the Train 1 Expansion, the Train 2 Expansion, or the Existing Facility, Contractor shall, except in an emergency endangering property or any Persons, give Owner written notice as soon as possible but no later than seven (7) Days' prior to the time that Contractor plans to perform such Work, detailing a plan that meets the requirements of Section 3.25A. Emergency actions are governed by Section 3.11. Prior to performing such Work, Owner and Contractor shall mutually agree on a proposed plan for Contractor to execute such Work. Notwithstanding Owner's agreement to the schedule and the plan for the performance of such Work, Owner may, in its sole discretion, subsequently prohibit the performance of such Work on such scheduled date, and Contractor shall work with Owner to develop a new plan and date for performing such Work in accordance with this Section 3.25B, and in such case Contractor shall be entitled to a Change Order to the extent permitted under Section 6.2A.1.

3.26 **Responsibility for Property**. Contractor shall carry out the Work so as not to interfere unnecessarily or improperly with, or damage, any access to, use or occupation of, public or private roads and footpaths or properties whether in the possession of Owner or of any other Person. Contractor shall liaise with, and ascertain the requirements of, all Governmental Instrumentalities in relation to vehicular access to and egress from the Site and shall comply with those requirements. Contractor shall so organize the Work as to minimize, and if required by any Governmental Instrumentalities having jurisdiction over such roads or footpaths, avoid vehicular travel during peak travel time on public roads, such as (but not limited to) school start and finish times. Contractor shall prevent damage to any highway or bridge by any traffic of Contractor or any Subcontractor or Sub-subcontractor and in particular, but without limitation, shall select routes, obtain all permits and permissions from relevant Governmental Instrumentalities, choose and use vehicles, and restrict and distribute loads so that any traffic interference which may arise from the moving of equipment and materials to and from the Site shall be limited as far as reasonably possible and so that no damage will be caused to highways and bridges. Contractor shall be deemed to have satisfied itself as to and shall be fully responsible for the routing for delivery of heavy or large loads to the Site or other locations where Work is performed. Contractor shall be fully responsible for all damages, losses, costs and expenses arising out of damage to such third-party property and shall promptly restore at its own cost and expense such property to the condition it was in before such damage. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site. Where the nature of the Work is such as to require the use by Contractor of waterborne transport, Contractor shall avoid, or minimize to

the extent possible, any interference by Contractor with the access by and use of the common harbor, waterways and jetty by other Persons.

3.27 **Explosives**. Explosives shall be transported to the Expansion Facility Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives. Residual surplus explosives shall be promptly removed from the Expansion Facility Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.28 **Nondiscrimination**. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, national origin, religion, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.28.

3.29 **Used or Salvaged Materials**. If, after Substantial Completion and prior to Final Completion, Contractor has any Equipment (including commissioning spare parts) that it intended for use with the Train 3 Expansion but did not incorporate therein, Owner has the option of either taking such Equipment at no cost to Owner or require that Contractor haul off such Equipment at Contractor's own cost and expense. Notwithstanding the foregoing, all Capital Spare Parts and operating spare parts itemized on the Owner-approved spare parts list prepared pursuant to Section 3.4 shall be the property of FLNG Liquefaction 3, LLC and shall only be utilized by Contractor upon Owner's prior written agreement in accordance with such Section 3.4.

3.30 **Supervision of Owner's Operation Personnel**. Until Substantial Completion (but subject to Owner rights under Section 11.8), Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Train 3 Expansion shall be under the control of and supervised by Contractor; *provided, however*, notwithstanding the foregoing, all such operating and maintenance personnel shall remain employees or agents of Owner (or its Affiliates) and shall not be considered employees of Contractor for any reason. To the extent not set forth in Attachment V, Contractor shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, prepare for Owner's review a proposed plan regarding the utilization of Owner's (or its Affiliates') operation and maintenance personnel and Contractor's personnel during pre-commissioning, commissioning, start-up and operations of the Train 3 Expansion and the conduct of Performance Tests and any other tests for the Train 3 Expansion. Each such plan shall be prepared (i) so as to minimize, to the extent reasonably possible under the circumstances (considering the need to keep the

Existing Facility operable, the Train 1 Expansion operable (after substantial completion under the Train 1 EPC Agreement), and the Train 2 Expansion operable (after substantial completion under the Train 2 EPC Agreement)), any impact on the operation of the Existing Facility, the Train 1 Expansion, and the Train 2 Expansion and (ii) to take into account (a) the Existing Facility, the Train 1 Expansion, and the Train 2 Expansion operating and maintenance procedures, (b) the number of operating and maintenance personnel available to Owner for participation in pre-commissioning, commissioning, start-up and Performance Testing, (c) safety issues for the Train 3 Expansion and (d) the type of activities to be performed. Such plan shall be mutually agreed-upon by the Parties no later than forty-five (45) Days after Owner's receipt of Contractor's proposed plan. Without in any way limiting Contractor's obligation to provide forces and labor during commissioning and Performance Testing, Contractor agrees that if any activity requires direct supervision by Contractor, such activity shall be performed by Contractor or a Subcontractor or Sub-subcontractor. Nothing in this Agreement, including this Section 3.30 or Section 3.2H, shall be interpreted to create a master-servant or principal-agent relationship between Contractor and any of Owner's (or Owner's Affiliates') operation or maintenance personnel.

3.31 **Use of Owner Equipment or Facilities**. Where Contractor requests from Owner and Owner agrees in writing to make available to Contractor certain construction equipment (*e.g.*, cranes, mules, tools, etc.) belonging to Owner for the performance of the Work, the following shall apply:

A. Owner-provided construction equipment shall be charged to Contractor at rental rates to be agreed between them;

B. Owner shall furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by Contractor during the rental period;

C. Contractor shall assure itself of the condition of such construction equipment and assume all risks and responsibilities during its use, it being understood by the Parties that any use of Owner's construction equipment is strictly on an "AS IS" basis and OWNER HEREBY DISCLAIMS, AND CONTRACTOR HEREBY WAIVES, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH CONSTRUCTION EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, CONDITION, OR FITNESS FOR ANY PARTICULAR PURPOSES OR USE;

D. To the fullest extent permitted by Applicable Law, Contractor shall, notwithstanding anything to the contrary in Article 17, release, defend, indemnify and hold harmless Owner Indemnified Parties from and against any and all claims, demands and liabilities directly or indirectly arising from the use of such construction equipment;

E. Owner and Contractor shall jointly inspect such Owner equipment or facilities before their use and upon their return. Any damage or destruction of such construction equipment, other than normal wear and tear, shall be repaired or replaced at Contractor's expense; and

F. If such construction equipment is furnished with an operator, the services of such operator shall be performed under the complete direction and control of Contractor and such operator shall be considered Contractor's employee for all purposes other than the payment of wages, workers' compensation insurance and other employment benefits.

3.32 **Compliance with Real Property Interests**. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors performing Work at the Site to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work.

ARTICLE 4
OWNER'S RESPONSIBILITIES

Owner shall comply with the following provisions in a timely manner:

4.1 **Payment**. Owner shall timely pay the Contract Price in accordance with the provisions of Article 7 hereof.

4.2 **Permits**. Owner shall be responsible for obtaining the Permits listed in Attachment Q. To the extent Owner has not obtained any Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment Q and Owner shall provide Contractor with copies of such Permits within ten (10) Business Days after obtaining them. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 **Access to the Site**. Owner shall provide Contractor with reasonable access on the Train 3 Expansion Site. Subject to Section 3.24, such access shall be sufficient to permit Contractor to progress with Work (including as necessary to perform Work under an LNTP) on a continuous basis without substantial interruption or interference. In addition, Owner shall provide Contractor with reasonable access on the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1 (or its Affiliate) takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), and the Train 2 Expansion Site (after FLIQ2 (or its Affiliate) takes over site security of the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) necessary for the performance of the Work; *provided, however*, except as allowed pursuant to Section 3.25, such access shall not interfere with the operation of the Existing Facility, the Train 1 Expansion or the Train 2 Expansion, nor shall it interfere with the performance of work by Owner's other contractors or subcontractors or other Persons. Contractor shall have the obligation to coordinate the performance of the Work with Owner and with any of Owner's other contractors or subcontractors as required in Sections 3.2P and 3.24.

4.4 **Operation Personnel**. Owner shall retain (through itself or an Affiliate) operating and maintenance personnel sufficient to pre-commission, commission, start-up and test the Train 3 Expansion under the supervision of Contractor during commissioning as set forth in Attachment V. Such personnel performing activities for the Train 3 Expansion shall be

under the control of and supervised by Contractor in accordance with Section 3.30. For clarity, however, Owner (or its Affiliate) shall provide and pay for all of Owner's (or such Affiliate's) operating and maintenance personnel, including all wages, fringes, taxes and insurance.

4.5 **Texas Sales and Use Taxes**.

A. ***Sales and Use Taxes Exemption Certificates on Exempt Equipment***.

1. For Texas state and local sales and use tax purposes, this Agreement shall be considered to be a separated contract for the construction of new non-residential real property as defined under Applicable Law, including 34 Tex. Admin Code Rule § 3.291(a)(13). Contractor shall ensure that all Subcontracts are separated for Texas state and local sales and use tax purposes.

2. Listed in Attachment FF are those items of Equipment (including materials) to be permanently installed in the Train 3 Project in which Owner intends to claim a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes under Applicable Law, including the governing law specified in Section 21.9 ("***Tax Exempt Equipment***"), which such list may be adjusted by Owner at its sole discretion by Change Order. In addition, with respect to any additional items of Equipment added by Change Order which are subject to a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes, Owner will update the list of Tax Exempt Equipment in Attachment FF.

3. Prior to issuance of NTP or any LNTP directing Contractor to procure any Equipment, and to the extent not already included in Attachment GG, Owner shall issue a Texas direct pay exemption certificate and Texas Sales and Use Tax Exemption Certificate(s) to Contractor, and Contractor shall not invoice Owner for Texas state and applicable local sales and use tax on the separately stated Tax Exempt Equipment Price and separately stated Taxable Equipment Price. Pursuant to direct pay permit status, Owner shall pay Texas state and applicable local sales and use tax directly to the State of Texas and the applicable local Governmental Instrumentality on the Taxable Equipment Price. Contractor shall provide the documents and information necessary to allow the Owner to properly determine this tax liability. Contractor shall maintain for Owner's review copies of Texas state and applicable local sales and use tax exemption certificates and other similar documentation necessary to support all Texas state and applicable local sales and use tax exemptions that may be available to Owner, Contractor or any Subcontractor or Sub-subcontractor in connection with the Work.

4. Contractor shall reasonably cooperate with Owner to minimize any and all Texas state and applicable local sales and use taxes relating to the Train 3 Project. If Contractor or any Subcontractor or Sub-subcontractor

incurs any Texas state and applicable local sales and use taxes on any items of Tax Exempt Equipment or Taxable Equipment listed in Attachment FF for which Owner provided Contractor with a valid applicable Texas state and applicable local sales and use tax exemption certificate or direct pay exemption certificate, Contractor shall be responsible for the payment of such Texas state and applicable local sales and use taxes without reimbursement by Owner and CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY CLAIMS BY A GOVERNMENTAL INSTRUMENTALITY FOR SUCH TEXAS STATE AND APPLICABLE LOCAL SALES AND USE TAXES.

B. ***Additional Contractor Texas Sales and Use Tax Responsibilities***. Contractor shall be considered a retailer of all Equipment incorporated into the Work. Contractor shall issue a valid Texas sales and use tax resale exemption certificate for Taxable Equipment and Tax Exempt Equipment to its Subcontractors, and Contractor shall not pay, consistent with such exemption certificate, any sales and use tax on Taxable Equipment and Tax Exempt Equipment to Subcontractors. Notwithstanding the foregoing, Contractor shall remain responsible for the payment of all Taxes on account of the Work, including Texas state and applicable local sales and use taxes on any purchase, lease or rental of construction equipment and on any other purchases related to Work other than the Tax Exempt Equipment and Taxable Equipment.

4.6 **Hazardous Materials**. Owner shall remediate, remove, transport or dispose of any Hazardous Materials discovered or released at the Site (including Hazardous Materials used or generated by operation of the Existing Facility), including any Hazardous Materials brought on the Site by third parties, but excluding any Hazardous Materials that are the responsibility of Contractor pursuant to Section 3.17. Contractor shall provide reasonable assistance to Owner in its Hazardous Material remediation efforts. OWNER SHALL DEFEND, INDEMNIFY AND HOLD CONTRACTOR INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES) INCURRED BY CONTRACTOR CAUSED BY ANY HAZARDOUS MATERIALS FOR WHICH OWNER IS RESPONSIBLE UNDER THIS SECTION 4.6.

4.7 **Legal Description and Survey**. Contractor acknowledges that Owner, through itself or its Affiliates, has provided to Contractor for Contractor's information a legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point.

4.8 **Owner Provided Items**. Owner shall provide those items listed in this Section 4.8 and in Attachment Z within the times listed therein, subject to the requirements and limitations set forth in this Section 4.8.

A. ***Natural Gas Feed to Achieve Substantial Completion***. As between Owner and Contractor under this Agreement, Owner shall procure and make natural gas feed available for commissioning, start-up, cool down and testing of the Train 3 Expansion (including natural gas or LNG utilized in the initial cool-down of the Train 3 Expansion). The natural gas feed to the Train 3 Expansion will meet the pressure,

temperature and quality requirements set forth in Schedule A-2 in accordance with this Section 4.8A and the delivery requirements as set forth by Section 4.8A(i) below. Such natural gas feed shall be made available by (or on behalf of) Owner at the inlet of the natural gas pretreatment facilities to be constructed by Contractor as part of the Work. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all natural gas feed in order for Contractor to achieve Substantial Completion. Contractor shall use GECP to minimize the amount of natural gas flaring or venting that is necessary to achieve Substantial Completion, and the start-up, commissioning and testing procedures agreed upon by the Parties shall be developed and administered in a manner to minimize natural gas flaring and venting. Further, Owner and Contractor will use reasonable efforts to allow for recirculation of natural gas and LNG between (i) the Existing Facility and the Train 3 Expansion, (ii) the Train 1 Expansion and the Train 3 Expansion after substantial completion of the Train 1 Expansion, and (ii) the Train 2 Expansion and the Train 3 Expansion after substantial completion of the Train 2 Expansion, to aid Contractor in the start-up, cool down, commissioning and testing of the Train 3 Expansion to assist in minimizing the amount of natural gas flaring or venting necessary to achieve Substantial Completion.

(i) In order for Owner to schedule the procurement of natural gas feed to be provided by Owner in accordance with Section 4.8A, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing its first delivery of natural gas feed for the Train 3 Expansion. Within such written notice, Contractor shall provide Owner with a range of days and a range of flows for each Day which Contractor, using GECP, believes it will need for delivery of natural gas feed in order to achieve Substantial Completion. No later than the twentieth (20^{th}) day of the Month prior to the Month in which natural gas feed will first be delivered, Contractor will provide a second written notice to Owner with an updated forecast of the days and amounts of natural gas feed deliveries for such Day necessary to achieve Substantial Completion of the Train 3 Expansion, which such Days and amounts shall be within the ranges provided by Contractor in its initial notice. If Contractor provides the above notices in accordance with this Section 4.8A(i), Owner will procure such natural gas feed in accordance therewith, subject to the limitations set forth in Section 4.8A; if Owner fails to provide natural gas feed as required herein, and Contractor provided Owner with the notices required by this Section 4.8A(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to provide the natural gas feed). Owner shall use reasonable efforts to procure natural gas feed deliveries in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure natural gas feed deliveries which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 3 Project Schedule or any other Changed Criteria.

B. ***Electrical Power Requirements to Achieve Substantial Completion***. Contractor shall procure and pay for all electricity necessary for the design, engineering,

procurement and construction of the Train 3 Expansion until RFSU of the Train 3 Expansion. Thereafter, as between Owner and Contractor under this Agreement, Owner shall procure and make electricity available for the Train 3 Expansion meeting the requirements set forth in Schedule A-2 in accordance with this Section 4.8B for the commissioning, start-up and testing (including Performance Testing) of the Train 3 Expansion. Such electricity feed shall be made available by (or on behalf of) Owner at the interface between CenterPoint's high voltage transmission lines and the Facility's high voltage transmission lines. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all electricity necessary from RFSU for achievement of Substantial Completion of the Train 3 Expansion. Contractor shall use GECP to use electricity in the most efficient manner practicable between RFSU and Substantial Completion of the Train 3 Expansion and minimize the consumption of electricity that is not utilized in producing incremental volumes of LNG meeting the specifications of this Agreement. The start-up, commissioning and testing procedures to be agreed upon by the Parties shall be developed and administered in a manner to ensure efficient use of electricity. For purposes of clarity, after Substantial Completion of the Train 3 Expansion and as between Owner and Contractor under this Agreement, Owner shall provide and pay for all electricity consumed by the Train 3 Expansion (whether consumed in the production of incremental on-spec LNG or otherwise).

(i) In order for Owner to schedule the procurement of electricity to be provided by Owner in accordance with Section 4.8B, Contractor shall provide Owner with written notice at least ninety (90) Days prior to the scheduled date for achievement of RFSU of the Train 3 Expansion (as shown on the most recent Monthly Updated CPM Schedule). Within such written notice, Contractor shall provide Owner with a daily power load profile which Contractor, using GECP, anticipates for its electricity consumption between RFSU and Substantial Completion. At least forty-five (45) Days prior to the scheduled date for achievement of RFSU of the Train 3 Expansion (as shown on the most recent Monthly Updated CPM Schedule), Contractor shall provide Owner with a second written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the first forty-five (45) Day period after RFSU is achieved for the Train 3 Expansion. Every forty-five (45) Days thereafter, Contractor shall provide Owner with written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the next forty-five (45) Day period (or until Substantial Completion is achieved for the Train 3 Expansion). For purposes of clarity, and by way of example and explanation only, if Contractor's second written notice (provided 45 Days prior to the scheduled achievement of RFSU) was provided on March 1st (for a scheduled RFSU achievement on April 14th), such notice should provide an estimate for power usage from April 14th until May 28th. Then, on April 14th, Contractor shall provide Owner with written notice estimating the power usage from May 29th until July 12th. Contractor shall provide similar notices every 45 Days thereafter until it has estimated its power usage up to the scheduled date of Substantial Completion for the Train 3 Expansion. If Contractor provides the above notices in accordance with this Section 4.8B(i), Owner will procure electricity in accordance therewith; if Owner fails to provide electricity as required herein, and Contractor provided Owner with

the notices required by this Section 4.8B(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to provide the electricity). In the event Contractor's planned activities between RFSU and Substantial Completion deviate from those assumed for purposes of estimating the power loads necessary to be supplied by Owner (such that the estimated power loads necessary for Contractor's activities change significantly in either amount, timing, or both), Contractor shall, as soon as reasonably possible, provide Owner with written notice of such deviations and provide new estimates for the power loads that have been previously estimated by Contractor.

C. ***Propane and Ethylene***. As between Owner and Contractor under this Agreement, Owner shall timely procure and pay for sufficient quantities of propane and ethylene (including any makeup propane and ethylene) for commissioning, startup and testing of the Train 3 Expansion. The propane and ethylene shall meet the specifications set forth in Attachment A. In order for Owner to schedule the supply of the quantities of propane and ethylene, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing delivery of the initial quantities of propane and ethylene for the Train 3 Expansion. Within such written notice, Contractor shall provide Owner with the quantities (itemized among the initial quantities and any makeup quantities) for both ethylene and propane which, using GECP, Contractor believes it will need in order to achieve Substantial Completion of the Train 3 Expansion. No later than ten (10) Days prior to Contractor's desired delivery date for the initial quantities of ethylene and propane, Contractor will provide a second written notice to Owner confirming or updating the quantities and delivery dates for the supply of ethylene and propane. If Contractor provides the above notices in accordance with this Section 4.8C, Owner will procure such ethylene and propane in accordance therewith; if Owner fails to provide propane or ethylene as required herein, and Contractor provided Owner with the notices required by this Section 4.8C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to provide the propane or ethylene). Owner shall use reasonable efforts to procure ethylene and propane in amounts in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure supplies which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 3 Project Schedule or any other Changed Criteria.

D. ***LNG Evacuation Requirements***. Owner shall evacuate LNG produced by the Train 3 Expansion from the LNG storage tanks in amounts necessary for Contractor to achieve Substantial Completion of the Train 3 Project (subject to Section 11.4A). In addition (but subject to Section 11.4A), Owner shall ensure that adequate storage remains available (in accordance with this Section 4.8D) for Contractor to achieve Substantial Completion notwithstanding Train 1 Expansion operations and Train 2 Expansion operations and use of the LNG storage tanks. Owner shall evacuate LNG from the LNG storage tanks in accordance with the notice procedure set forth in

Section 11.1C. If Owner fails to provide LNG evacuation at the times and in the amounts required by Section 11.1C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to evacuate LNG from the LNG storage tanks). To the extent the Train 3 LNG Storage Tank is unavailable to Contractor for storage of LNG produced from the Train 3 Expansion during commissioning, Owner shall provide adequate space in the Existing Facility's LNG storage tanks for LNG produced from the Train 3 Expansion. Owner shall evacuate 1,250,000 cubic meters of LNG from the LNG storage tanks (either the Existing Facility's LNG storage tanks or the Train 3 LNG Storage Tank) (to the extent such amount is necessary for Contractor to achieve Substantial Completion) for the commissioning, tuning and testing of the Train 3 Expansion ("***LNG Evacuation Requirement***"). If Contractor requires additional amounts of LNG evacuated from the LNG storage tanks in order to achieve Substantial Completion, Owner shall evacuate such LNG in accordance with the requirements of Section 11.1C; *provided, however*, for each cubic meter of LNG evacuated by Owner above the LNG Evacuation Requirement, Contractor shall be liable to Owner for any actual, incremental costs to Owner (net costs after accounting for any revenues received by Owner as a result of such evacuation) not to exceed Twenty-Four U.S. Dollars (U.S.$24.00) per cubic meter of LNG evacuated above the LNG Evacuation Requirement; *provided further, however*, that Contractor's aggregate liability to Owner for the foregoing incremental costs shall not exceed Twenty Million U.S. Dollars (U.S.$20,000,000) (and any such liabilities incurred by Contractor shall accrue against Contractor's aggregate liability under Section 20.1). While adhering to the LNG evacuation schedule required by Section 11.1C, Owner will use commercially reasonable efforts to avoid or minimize any net costs it incurs in provding LNG evacuation above the LNG Evacuation Requirement.

E. ***LNG Tanker Loading Requirements***. As between Owner and Contractor under this Agreement, Owner shall provide Contractor with LNG Tanker loading opportunities in order for Contractor to conduct the Ship Loading Performance Test. When performing the Ship Loading Performance Test, Owner shall have, or cause to have, the LNG Tanker cold and ready to accept LNG transfer with no constraints on loading rates at or below the Ship Loading Rate MAC. Contractor shall have the right to determine which LNG Tanker loading opportunities provided by Owner will be utilized for the Ship Loading Performance Test. Subject to Section 11.4A, Contractor will be provided with enough LNG Tanker loading opportunities for Contractor to successfully achieve the Ship Loading Performance Test. Notwithstanding the foregoing, however, if (i) Contractor has been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test, (ii) Contractor's only barrier to achieving Substantial Completion of the Train 3 Expansion is passing the Ship Loading Performance Test for the Train 3 LNG Storage Tank and (iii) Contractor is otherwise ready to perform such Ship Loading Performance Test, then Contractor's liability for Substantial Completion Delay Liquidated Damages shall not exceed thirty (30) Days of Substantial Completion Delay Liquidated Damages in the event Contractor is unable to conduct a Ship Loading Performance Test due to Owner's inability to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. If the foregoing circumstances arise, once

Contractor is provided with its next LNG Tanker loading opportunity (after Contractor has been provided with the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test), if the Ship Loading Performance Test is unsuccessful, Contractor's liability for Substantial Completion Delay Liquidated Damages shall re-commence but shall not exceed thirty (30) Days of additional Substantial Completion Delay Liquidated Damages if Owner is unable to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. Subject to Section 11.4A, the foregoing 30-Day limitation on Substantial Completion Delay Liquidated Damages and re-commencement of such Delay Liquidated Damages after an unsuccessful Ship Loading Performance Test shall continue until the Ship Loading Performance Test is achieved. To the extent necessary for successful achievement of the Ship Loading Performance Test, Owner will use commercially reasonable efforts to provide Contractor with additional LNG Tanker loading opportunities as soon as possible after the initial ten (10) loadings have been provided.

1. In the event that (i) Contractor has not been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test, (ii) Contractor is ready to perform the Ship Loading Performance Test, and (iii) such Ship Loading Performance Test is Contractor's only barrier to achieving Substantial Completion for the Train 3 Expansion, Contractor (once the Guaranteed Substantial Completion Date has arrived or if it has passed) shall be entitled to an extension to the Train 3 Project Schedule and adjustment to the Contract Price to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing the delay in providing LNG Tanker loading opportunities to Contractor) until the earlier of (1) a successful Ship Loading Performance Test is achieved or (ii) Owner provides (or causes to be provided) the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test.

ARTICLE 5
COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS

5.1 **Commencement of Work**. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence with the performance of the Work specified in such LNTP or NTP.

5.2 **Limited Notice to Proceed/Notice to Proceed**.

A. ***Limited Notices to Proceed***.

1. On the Effective Date, Owner shall issue to Contractor LNTP No. 1 in the form of Schedule H-3 ("***LNTP No. 1***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 1, subject to the payment provisions and maximum payments set forth in LNTP No. 1. All Work performed under LNTP No. 1 shall be performed pursuant to the terms

and conditions of this Agreement and all payments for the LNTP Work under LNTP No. 1 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 1 in Schedule C-1.

2. At any time prior to the date of issuance of NTP, Owner may issue additional LNTPs in the form set forth in Schedule H-1, which shall authorize Contractor to commence performance of a specified portion of the Work. Each such LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Contract Price (as it may be adjusted by Change Order) and the first progress payment(s) to become due hereunder. Each LNTP shall be performed on a fixed-price basis, in accordance with the Payment Milestones defined in Attachment C, Schedule C-1 and the agreed upon payment terms, unless otherwise mutually agreed in writing by the Parties.

B. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Upon Contractor's receipt from Owner of the NTP, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-2. If Owner fails to issue NTP on or before June 30, 2015, then Contractor shall have the rights set forth in Section 5.2C.

C. ***Contract Price and Train 3 Project Schedule Validity and Delay in Issuance of NTP***. Subject to Section 5.2C.1 below, in order for the Contract Price and Train 3 Project Schedule to remain valid under this Agreement, Owner shall issue NTP on or before June 30, 2015. If Owner fails to issue NTP by June 30, 2015, then Contractor shall be entitled to an adjustment to the Contract Price and the Train 3 Project Schedule (including the Guaranteed Substantial Completion Date) if and to the extent the Parties' utilization of an open book estimate process substantially similar to that performed under the FEED Agreement shows, through a reevaluation of the Contract Price and Train 3 Project Schedule (including Subcontracts, labor costs, per diems, equipment and bulk material costs and delivery schedules), that issuance of NTP under this Agreement after the required date set forth herein (as compared to on or before such dates) has resulted in increased costs chargeable to Contractor or an increased time for the performance of the Work (including 19% on such increased costs for Contractor's G&A and profit). For the avoidance of doubt, any adjustment to the Contract Price or Train 3 Project Schedule shall not be based upon a change in the scope of engineering work or the quantity of materials or equipment, or the amount of field labor or field in-directs, unless the staffing plan or Train 3 Project Schedule is materially affected by late issuance of NTP described in this Section. Contractor shall use commercially reasonable efforts and GECP to mitigate the increase to the Contract Price or delay to the Train 3 Project Schedule.

1. If necessary, Owner shall have the right to submit a written notice to Contractor notifying Contractor that Owner may not issue NTP within the time periods required by this Agreement and requiring Contractor to prepare an updated proposal for the Contract Price and Train 3 Project Schedule (the "***Updated Contract Price and Train 3 Project Schedule Proposal***") to be valid for Owner's acceptance for a period of ninety (90) Days from its issuance to Owner (or such other validity period that may be agreed upon by the Parties in writing). Such Updated Contract Price and Train 3 Project Schedule Proposal shall be performed in accordance with Section 5.2C above. In Owner's written notice to Contractor for the Updated Contract Price and Train 3 Project Schedule Proposal, Owner may request that Contractor's proposal include plans to accelerate the Work in order to maintain, to the extent practicable, the original Train 3 Project Schedule. Upon receipt of the written notice from Owner, Contractor shall promptly commence the update to the Contract Price and Train 3 Project Schedule and shall submit the Updated Contract Price and Train 3 Project Schedule Proposal as promptly as practicable, but in any event no more than sixty (60) Days after receipt of the foregoing written notice from Owner. Once received by Owner, the Updated Contract Price and Train 3 Project Schedule Proposal shall be subject to negotiation between Owner and Contractor, and if there are agreed adjustments, such adjustments shall be valid for Owner's acceptance within the validity period for the Updated Contract Price and Train 3 Project Schedule Proposal (or such other validity period that may be agreed upon in writing by the Parties). If the Parties agree on an updated Contract Price and Train 3 Project Schedule, the adjustments to the Contract Price and Train 3 Project Schedule shall be adjusted by Change Order signed by Owner and Contractor.

2. The Updated Contract Price and Train 3 Project Schedule Proposal shall be based upon a mutually agreed Work scope to continue under one or more LNTPs under this Agreement until issuance of NTP hereunder by Owner. If the Parties have not agreed upon an updated Contract Price and Train 3 Project Schedule, and Owner has not issued NTP under this Agreement within the validity period of the applicable proposal, Section 5.2C.1 shall apply in the event Owner requests subsequent updated proposals for the Contract Price and Train 3 Project Schedule.

5.3 **Train 3 Project Schedule**. Contractor shall perform the Work in accordance with the Train 3 Project Schedule set forth in this Section 5.3 and in Attachment E.

A. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Train 3 Expansion no later than August 3, 2019 ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

B. ***Required Final Completion Date***. Contractor shall achieve Final Completion no later than ninety (90) Days after Substantial Completion ("***Required***

Final Completion Date"). The Required Final Completion Date shall only be adjusted by Change Order as provided under this Agreement.

5.4 **CPM Schedule**.

A. ***Baseline CPM Schedule Submissions***. Within sixty (60) Days after the Owner's issuance of the NTP, Contractor shall prepare and submit to Owner for its review and written approval a baseline critical path method schedule consisting of a resource/work-hour loaded CPM Schedule using Primavera Project Planner version 6.x or higher detailed to a discipline, craft and subsystem level based upon the Work Breakdown Structure (upon Owner's approval, the "***Baseline CPM Schedule***"). The Baseline CPM Schedule shall, at a minimum, be detailed as a resource loaded schedule with project unit area, and discipline (as described in the Work Breakdown Structure) for activities for the Train 3 Project (including engineering, procurement, construction, pre-commissioning, commissioning, testing and startup), shall be fully integrated, shall be consistent with the Train 3 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date, and shall show an uninterrupted critical path from NTP through RFSU, RLFC, Substantial Completion and Final Completion. In addition, the Baseline CPM Schedule shall be capable of being integrated with the baseline critical path method schedule developed under the Train 1 EPC Agreement and Train 2 EPC Agreement in order to produce a master baseline critical path method schedule for the combined Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion. With respect to each activity in the Baseline CPM Schedule, the Baseline CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value and projected work-hours as well as identify the Work interfaces for other parties' activities (including Owner, Owner's other contractors, and utility companies), which shall be sorted by the Work Breakdown Structure and scheduled start or another format agreed upon by Owner. The Baseline CPM Schedule shall represent Contractor's judgment, using GECP, as to how it shall complete the Work in compliance with the Train 3 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date. The Baseline CPM Schedule shall be submitted in electronic format, created by Primavera Project Planner software back-up utility and including all Primavera Project Planner network data. Contractor shall submit with the Baseline CPM Schedule the following: (a) Primavera based listing of "predecessor/successor" in tabular format showing activities in the Baseline CPM Schedule, their predecessor activities and relationships and their successor activities and relationships; (b) progress "S" curve, showing the baseline plan, actual and forecast progress by Month for total progress of the Work, which shall be based on the Baseline CPM Schedule; (c) engineering discipline and overall engineering and construction manpower histograms showing forecast manpower required by Month, for scheduled completion of the Work; (d) Drawing log showing the Drawing number, title, planned, actual and forecast issue for construction ("***IFC***") release dates by discipline and reporting period; and (e) procurement log showing the Equipment Subcontract order number, description, forecast and actual bid release dates, Equipment Subcontract order release dates, required-at-Site dates and delivery dates.

B. ***Monthly Updated CPM Schedules.*** After approval by Owner of the Baseline CPM Schedule described in Section 5.4A, Contractor shall manage and update (no less frequently than once every month), using GECP, a critical path method schedule for the Work with Primavera Project Planner (each such updated schedule being a "***Monthly Updated CPM Schedule***") showing the actual, up-to-date progress of the Work and forecasted Work activities. The Monthly Updated CPM Schedule shall not modify the Baseline CPM Schedule or the Train 3 Project Schedule (including the Guaranteed Substantial Completion Date or the Required Final Completion Date), nor shall it change any dates that relate to Owner's obligations or Work interfaces under the Agreement. Each Monthly Updated CPM Schedule shall meet the requirements of Section 5.4 and Attachment X, and in addition shall (i) at a minimum be prepared with the same level of detail as the Baseline CPM Schedule, (ii) show the Baseline CPM Schedule, (iii) for each activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity and forecasted completion date for each such activity, (v) for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of RFSU, RLFC, Substantial Completion and Final Completion, and (vii) update the Monthly Updated CPM Schedule with all other information shown in the Baseline CPM Schedule, reflecting the Work as actually performed or as forecasted. In addition, the Monthly Updated CPM Schedule shall be capable of being integrated with the monthly updated critical path method schedule developed and updated under the Train 1 EPC Agreement and Train 2 EPC Agreement in order to produce a master monthly updated critical path method schedule for the combined Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion. The Monthly Updated CPM Schedule shall be submitted to Owner in the same detail and form as required by the Baseline CPM Schedule. If Contractor changes the schedule logic, any durations or resource-loading with respect to any activity in its Monthly Updated CPM Schedule such that it deviates from the Baseline CPM Schedule, Contractor shall provide Owner with a written explanation of each such change along with the Monthly Updated CPM Schedule (but the Baseline CPM Schedule shall not be changed). Contractor shall promptly correct any errors or inconsistencies in the updates to the Monthly Updated CPM Schedule identified to Contractor by Owner and shall re-submit a corrected Monthly Updated CPM Schedule to Owner for review.

C. ***Review, Comments and Approvals of CPM Schedules***.

1. In addition to the approval of the Baseline CPM Schedule described in Section 5.4A, Owner shall review and approve any proposed adjustments to the Baseline CPM Schedule. The Baseline CPM Schedule shall not be adjusted except by Change Order.

2. No more than once every three (3) Months, Owner shall have the right to review, analyze and comment on the Monthly Updated CPM Schedule. As a component of the process for Owner's review of the Monthly Updated CPM Schedule pursuant to this Section 5.4C.2, Owner and Contractor shall conduct a schedule workshop with the Monthly Updated

CPM Schedule and conduct a detailed schedule analysis on the CPM Schedule with third party software applications (selected and provided by Owner, at its cost) capable of performing forensic, metric and logic analysis on the CPM Schedule (such as Acumen Fuse™ or P6 Project Integrity Checker). A mutually agreed upon set of parameters and thresholds shall be set forth in writing and used by Contractor and Owner for this review. Based upon the schedule analysis (including the use of the third party software applications) and the agreed upon schedule parameters and thresholds, schedule corrections and/or optimizations shall be generated. All such correction and/or optimizations shall be mutually resolved by Contractor and Owner.

3. Any review, comment or approval by Owner of the Baseline CPM Schedule, any adjustments to the Baseline CPM Schedule or any Monthly Updated CPM Schedule shall not relieve Contractor of any obligations for the performance of the Work, nor shall it be construed to establish the reasonableness of the Baseline CPM Schedule or any Monthly Updated CPM Schedule. In addition, any review, comment or approval by Owner of any Monthly Updated CPM Schedule is for purposes of verifying Contractor's development of Monthly Updated CPM Schedules meeting the requirements of Section 5.4 and shall not, under any circumstances, change the Train 3 Project Schedule (including the Guaranteed Substantial Completion Date), alter the timing of any of Owner's obligations or Work interfaces identified in the Baseline CPM Schedule or otherwise modify any other aspect of the Baseline CPM Schedule. Owner shall be entitled to reasonably rely upon the Baseline CPM Schedule and any Monthly Updated CPM Schedules, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to plan, organize, direct, coordinate, perform, execute and complete each portion of the Work within the times set forth in the Train 3 Project Schedule.

D. ***30 Day Look-ahead Schedule***. No later than the tenth (10th) Day of each Month, Contractor shall submit to Owner a 30 Day look-ahead schedule ("***30 Day Look-ahead Schedule***"), which shall be based on the Monthly Updated CPM Schedule showing in detail the activities to be performed during the next thirty (30) Days, including target, forecast and actual dates for each activity, shall be detailed into project unit area and discipline, and shall meet all other requirements of updates to the Monthly Updated CPM Schedule as described in Section 5.4B.

E. ***Form of Submittals; Access to Native Files***. Submittals of the Baseline CPM Schedule (as may be adjusted from time to time via Change Order) and the Monthly Updated CPM Schedules by Contractor to Owner shall be in both native electronic and paper format. Native electronic submissions of the Baseline CPM Schedule and the Monthly Updated CPM Schedules shall be provided via password-protected document control system access and may be downloaded from the secure system by Owner personnel having password authorization. Four (4) hard copies of each submittal shall be provided to Owner, and one (1) electronic copy shall be provided

to Owner. Owner acknowledges that the native electronic files of the Baseline CPM Schedule and the Monthly Updated CPM Schedules include Contractor's Confidential Information of an extremely sensitive nature that is governed by the terms of this Agreement's confidentiality provisions. In addition to its confidentiality obligations hereunder, Owner shall regulate the distribution of, and access to, the native electronic files provided by Contractor on a need-to-know basis (including among its own employees and its Affiliates and Affiliates' employees) and shall only distribute such native electronic files to the extent necessary for the exercise of Owner's rights and obligations under this Agreement or as required by its Lenders. Such native electronic files shall be protected in the same manner, and under the same policies and procedures, that Owner protects Owner's Confidential Information, which such policies and procedures shall be of a level at least equal to industry standards for protection of like information.

F. ***Failure to Submit CPM Schedule***. In the event Contractor fails to provide the schedules in accordance with Sections 5.4 and 5.6, Owner shall have the right to withhold payment of Invoices due until compliance with Sections 5.4 and 5.6 is achieved.

5.5 **Recovery and Recovery Schedule**. If, at any time during the prosecution of the Work, (i) should the Monthly Updated CPM Schedule or Monthly Progress Report show that any activity on the critical path of the applicable CPM Schedule is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date (as such Guaranteed Substantial Completion Date or Required Final Completion Date may be adjusted by Change Order executed by the Parties), or should Contractor fail to provide a Monthly Updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on the critical path is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date, or should Contractor fail to achieve any Schedule Milestone within thirty (30) Days after the date specified for such Schedule Milestone (as such Schedule Milestones may be adjusted by Change Order executed by the Parties) and (ii) Contractor or any of its Subcontractors or Sub-subcontractors are in Owner's reasonable judgment responsible for such delay, Owner may, in addition to any other remedies that it may have under this Agreement, require that Contractor prepare a schedule to explain and display how it intends to regain compliance with the Baseline CPM Schedule during the immediate subsequent pay period or other period selected by Owner ("***Recovery Schedule***"). Contractor shall do the following after written notification by Owner of the requirement for a Recovery Schedule:

A. Within ten (10) Business Days after such written notification, Contractor shall prepare the Recovery Schedule and submit it to Owner for its review. Contractor shall prepare the Recovery Schedule even if Contractor disputes Owner's determination of the need for a Recovery Schedule. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline CPM Schedule. The Recovery Schedule shall be prepared in accordance with GECP and to a similar level of detail as the Baseline CPM Schedule, and shall have (unless otherwise

specified in writing by Owner) a maximum duration of sixty (60) Days unless otherwise mutually agreed.

B. Within ten (10) Business Days after Contractor submits a Recovery Schedule, Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for review by Owner within three (3) Days after the conference. The revised Recovery Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of Subcontractors and Sub-subcontractors) for the duration specified in Section 5.5A, to regain compliance with the Baseline CPM Schedule.

C. Contractor shall perform the Work in accordance with the Recovery Schedule.

D. Five (5) Days prior to the expiration of the Recovery Schedule, Contractor shall meet with Owner at the Site to determine the effectiveness of the Recovery Schedule and to determine whether Contractor has regained compliance with the Baseline CPM Schedule. At the direction of Owner, one of the following shall happen:

1. If, in the opinion of Owner, Contractor is still behind schedule, Contractor shall be required to prepare another Recovery Schedule pursuant to Section 5.5A above, to take effect during the immediate subsequent pay period or other period selected in writing by Owner. Contractor shall prepare such Recovery Schedule even if Contractor disputes Owner's opinion.

2. If, in the opinion of Owner, Contractor has sufficiently regained compliance with the Baseline CPM Schedule, Contractor shall return to the use of the Baseline CPM Schedule.

E. In preparing and executing the Recovery Schedule, Contractor shall take all steps necessary to regain compliance with the Baseline CPM Schedule, including establishing additional shifts, hiring additional manpower, paying or authorizing overtime, providing additional equipment, and resequencing activities.

F. The cost of preparing the Recovery Schedule, and performing in accordance therewith, shall be for Contractor's account.

G. Owner's requirement, review and approval of the Recovery Schedule, or its decision not to request a Recovery Schedule, shall not relieve Contractor of any obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Required Final Completion Date, or be construed to establish the reasonableness of the Recovery Schedule.

H. Failure of Contractor to comply with its obligation to provide a Recovery Schedule in accordance with this Section 5.5, after Owner provides Contractor with fifteen (15) Days prior written notice, shall be a Default.

5.6 **Acceleration and Acceleration Schedule**. Even if the Work is otherwise in compliance with the Baseline CPM Schedule, Owner may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, providing additional construction equipment or expediting Equipment; *provided, however*, (i) in no event shall Owner unilaterally order acceleration of the Work requiring Contractor to achieve Substantial Completion or Final Completion prior to the respective, original Guaranteed Substantial Completion Date or Required Final Completion Date and (ii) unless the Parties mutually agree by Change Order to adjustments to the Train 3 Project Schedule as a result of the acceleration, Contractor's obligation with respect to an acceleration directive from Owner shall be limited to using commercially reasonable efforts to accelerate the Train 3 Project Schedule. In the event of this directive, Owner's sole liability shall be to pay to Contractor any documented costs clearly and solely attributable to such acceleration. Such costs may include any incremental overhead or administrative costs, shift differential, premium, margin on incremental costs, increased costs resulting from any inefficiencies realized as a result of such acceleration, costs to expedite, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work (including additional indirect staff) on a full-time basis actually incurred over and above Contractor's normal rates, and overtime charges for equipment. Any adjustment to the Contract Price or any other Changed Criteria that the Parties agree in writing will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order. If Owner directs Contractor in writing to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by Owner, and shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Baseline CPM Schedule (the "***Acceleration Schedule***"). With respect to the Acceleration Schedule, Contractor shall do the following:

A. No later than the tenth (10^{th}) Business Day after such directive or such longer time as may be mutually agreed in writing by the Parties, Contractor shall prepare the Acceleration Schedule and submit it to Owner for its review. The Acceleration Schedule shall represent Contractor's best judgment as to how it shall satisfy Owner's acceleration directive. The Acceleration Schedule shall be prepared using GECP and to a similar level of detail as the Baseline CPM Schedule.

B. On the tenth (10^{th}) Business Day after such directive (or such longer time as may be mutually agreed in writing by the Parties), Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Acceleration Schedule. Any revisions to the Acceleration Schedule necessary as a result of this review shall be resubmitted for review by Owner no later than the tenth (10th) Day after such meeting or such other date as may be agreed in writing by the Parties. The revised Acceleration Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing that portion

of the Work that is affected by such acceleration, with the Baseline CPM Schedule governing the performance of all other Work.

C. Owner's review and approval of the Acceleration Schedule shall not constitute an independent evaluation or determination by Owner of the workability, feasibility, or reasonableness of that schedule.

ARTICLE 6
CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 **Change Orders Requested by Owner**. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

A. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within five (5) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Contract Price, the Train 3 Project Schedule, the Design Basis, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees, or any other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). With Contractor's response, Contractor shall provide a written statement to Owner that sets forth the effects, if any, that the proposed Change Order would have on the contract price, project schedule or other obligation. If it is not possible for Contractor to provide all of the information required under this Section 6.1A to be submitted with such written statement within such five (5) Business Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such five (5) Business Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed Change Order from Owner. The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.5B.

1. In the event that Owner requests Contractor to prepare a response to a proposed Change Order pursuant to Section 6.1A, and Contractor believes that the incremental cost to be incurred by Contractor in order to prepare such response will exceed Eight Thousand U.S. Dollars (U.S.$8,000), then Contractor shall give Owner written notice within five (5) Business Days after receipt of Owner's request, and prior to incurring costs with respect to such response, identifying such threshold may be exceeded and providing Owner with an estimate of the incremental cost to prepare such response to the proposed Change Order. Owner shall then have the right to request Contractor to proceed with the response or not. If Owner requests Contractor to proceed and Owner ultimately decides not to enter into a Change Order based upon this response, then Owner's payment responsibility shall be for Contractor's incremental costs above the foregoing threshold amount incurred in providing the response to the proposed Change Order (but not to exceed

Contractor's estimated cost for the Change Order response unless prior approval is given by Owner in writing).

B. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement.

C. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1A, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order on a time and materials basis using the rates as set forth in Schedule D-4, or if not specified therein, at rates not to exceed then-current market rates with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible. If the Parties cannot agree on the effect of such unilateral Change Order by the date of Final Completion, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) and shall diligently perform the changed Work or other obligations required in such unilateral Change Order.

6.2 **Change Orders Requested by Contractor**.

A. Contractor shall only have the right to request a Change Order in the event of any of the following occurrences:

1. Acts or omissions of Owner, or of any Owner Indemnified Parties or any other Person acting on behalf of or under the control of Owner, that constitute a breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to

delays (as that term is defined Section 6.9) caused by any Owner Indemnified Parties or any Person acting on behalf or under the control of Owner, compensation and a time extension to the Train 3 Project Schedule to the extent allowed under Section 6.8;

2. Force Majeure to the extent allowed under Section 6.7A;

3. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued;

4. To the extent Contractor has complied with Section 3.17, discovery of pre-existing Hazardous Materials at the Site that adversely affect Contractor's cost (which costs shall be adequately documented and supported by Contractor) of the performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.9) caused by such discovery of pre-existing Hazardous Materials, compensation and a time extension to the Train 3 Project Schedule to the extent allowed under Section 6.8;

5. To the extent expressly permitted under Section 2.5B.2, 2.5E, 3.3C.5, 3.24A, 4.8A(i), 4.8B(i), 4.8C, 4.8D, 4.8E.1, 5.2C, 7.10B, 7.11, 8.2A.3, 8.2A.4, 11.1D.2, 12.2A, or 16.6, or Section 14.2 or 14.22 of Schedule A-1, Section 6.1.5 of Schedule A-2, Section 5.1.1 of Schedule A-3, or Section 1.P or 2.D of Attachment O;

6. Purchase of operating spare parts in accordance with Section 3.4C;

7. Suspension in Work ordered by Owner pursuant to Section 16.3 or a suspension in Work allowed to Contractor pursuant to Section 16.4; or,

8. Changes in Law that materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.9) caused by such Changes in Law, compensation and a time extension to the Train 3 Project Schedule to the extent allowed under Section 6.8.

B. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.5, notify Owner in writing and issue to Owner, at Contractor's expense, a request for a proposed Change Order in the form attached hereto as Schedule D-3, a detailed explanation of the proposed change and Contractor's reasons for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.5. Any adjustments to the Contract Price shall be requested on a fixed price separated basis according to Article 7 (or such other pricing basis as the Parties may mutually agree in writing) and shall be derived from the rates set forth in Schedule D-4 to the extent

applicable or, if not stated therein, derived from rates not to exceed then-current market rates.

C. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

D. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1C are applicable.

E. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, as modified by any previously agreed Change Orders, and with the terms of any unilateral Change Orders.

6.3 **Contract Price Adjustment; Contractor Documentation**. If a Change Order is executed on a time and materials basis pursuant to Section 6.1C or 6.2D, then interim payments shall be made to Contractor in accordance with the terms of Section 6.1C for such unilateral Change Order Work; *provided that* the Contract Price shall not be adjusted unless and until a mutual Change Order is executed by the Parties that supersedes the unilateral Change Order (and such mutual Change Order adjusts the Contract Price) or the dispute underlying the unilateral Change Order is resolved in accordance with Article 18 requiring an adjustment to the Contract Price. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets, invoices and receipts. With respect to all unilateral and mutual Change Orders, as well as any requests for Change Orders by Contractor pursuant to Section 6.2, Contractor shall maintain and present all applicable Books and Records and other documentation related to such actual or requested Change Orders in a manner that would allow such documentation (including cost and schedule-related information) to be segregated into documentation relating to Train 3 Specific Work and Work on Train 3 Specific Common System.

6.4 **Change Orders Act as Accord and Satisfaction**. Change Orders agreed pursuant to Section 6.1B or 6.2C by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1C or 6.2D on a time and materials basis and which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a

superseding and mutually agreed upon Change Order as provided in Section 6.1B or 6.2C, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for all direct and indirect impacts of such change. Accordingly, unless otherwise expressly and conspicuously stated in such Change Order, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work); *provided, however*, Contractor may only expressly reserve its right under a Change Order to make such claim or demand or take any such action or proceeding against Owner if Contractor is not able in good faith to determine, using GECP, all of the effects of the change at the time of executing such Change Order and, *provided further*, subject to Section 6.4A, that if Contractor so expressly reserves its rights in accordance with this Section 6.4, Contractor shall make such claim or demand or take any such action or proceeding against Owner within a reasonable time but in no event later than three (3) months after the date of such Change Order (unless the Parties mutually agree to extend such time period in writing), and if Contractor fails to bring such claim or demand within such three (3) month period (or such longer time period as the Parties mutually agree in writing), Contractor is deemed to have forever waived and released such claim or demand.

A. The foregoing three (3) month time period set forth in Section 6.4 for Contractor bringing forth to Owner a previously reserved claim or demand shall not apply for Change Orders requested under Sections 6.2A.2, 6.2A.3, 6.2A.8, 8.2A.3, or 8.2A.4 and, in such circumstances, Contractor shall bring such previously reserved claim or demand as soon as reasonably possible using GECP but no later than prior to Substantial Completion.

6.5 **Timing Requirements for Notifications and Change Order Requests by Contractor**. Should Contractor desire to seek an adjustment to the Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Milestone Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

A. notify Owner in writing of the existence of such circumstance within twenty (20) Days after the date that Contractor's Key Personnel knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* if such circumstance is an emergency, oral notice shall be given immediately, followed with written notice within three (3) Days after the date such oral notice is provided. In such notice (written or oral), Contractor shall state in detail all known and

presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the good faith estimate of cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the applicable CPM Schedule), any other details or information that are expressly required under this Agreement and any information and documents relevant to such claim or circumstance. Contractor shall only be required to comply with the notice requirements of this Section 6.5A once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

B. submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner written notice but in no event later than seven (7) Days after the completion of each such circumstance, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Schedule D-4, detailed estimates and cost records, daily time sheets and a graphic demonstration using the applicable CPM Schedule, showing Contractor's entitlement to a time extension to the Train 3 Project Schedule pursuant to the terms of this Agreement, which shall be provided in hard copy and in native electronic format in accordance with Section 5.4E); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria. If it is not possible for Contractor to provide all of the information required under this Section 6.5B to be submitted with such proposed Change Order within such seven (7) Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such seven (7) Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's submission of such proposed Change Order.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.5, and agree that such requirements are an express condition precedent necessary to any right for an adjustment in Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement.

6.6 **Adjustment Only Through Change Order**. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date or Required Final Completion Date, Payment Milestone Schedule, any Work, any of the

Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6. Contractor shall not perform any change in the Work unless and until such change is authorized pursuant to this Article 6, and should Contractor perform or claim to perform any changes in the Work prior to authorization by Change Order, all such costs and expenses incurred by Contractor shall be for Contractor's account. No course of conduct or dealings between the Parties, nor express or implied acceptance of additions, deletions, suspensions or modifications to this Agreement, including any Work, and no claim that Owner has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim for an adjustment in the Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, the Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor under this Agreement.

6.7 **Force Majeure**.

A. ***Contractor Relief***.

1. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an extension to the Guaranteed Substantial Completion Date or the Required Final Completion Date if such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10. Subject to Section 6.7A.2, the Parties agree that Contractor's sole remedy for such delay shall be an adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date, as applicable, pursuant to a Change Order. Any adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date shall be recorded in a Change Order.

2. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an adjustment to the Contract Price as provided in (a) or (b) below if Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10 and meets the requirements of either (a) or (b) below. Any adjustment to the Contract Price shall be recorded in a Change Order.

(a) With respect to any one or more hurricanes or named tropical storms in (or forecasted by the National Weather Service to make

landfall in) the Texas Gulf Coast region that constitute a Force Majeure event, Contractor shall be entitled to an adjustment to the Contract Price for reasonable incremental costs (including for field indirect personnel and field overhead) necessarily incurred by Contractor (i) to prepare the Work on the Site to safely weather such hurricane or named tropical storm, (ii) during demobilization of Contractor's personnel and applicable construction equipment from the Site to a safe off-Site location prior to the Force Majeure and (iii) during remobilization of Contractor's personnel and applicable construction equipment from the off-Site location to the Site after the Force Majeure; *provided that* Contractor shall bear at its own expense the first Three Hundred Seventy-Five Thousand U.S. Dollars (US$375,000) of such costs with respect to any one hurricane or named tropical storm, *provided further that* the aggregate amount which Contractor shall be required to bear with respect to the above costs is One Million U.S. Dollars (US$1,000,000).

(b) In the event that any one or more Qualified Force Majeure Events, in the aggregate, cause Contractor to achieve Substantial Completion more than thirty (30) Days after the Guaranteed Substantial Completion Date, Contractor shall be entitled to an adjustment to the Contract Price for reasonable costs necessarily incurred by Contractor for further delay occurring after the expiration of such thirty (30) Day aggregate period as a result of Qualified Force Majeure Events. A "***Qualified Force Majeure Event***" is a single Force Majeure event that otherwise meets the requirements of Section 6.7A.1 and causes Contractor to achieve the Substantial Completion five (5) or more Days after the Guaranteed Substantial Completion Date.

B. ***Owner Relief***. Subject to Section 6.7C, Owner's obligations under this Agreement shall be suspended to the extent that performance of such obligations is delayed by Force Majeure.

C. ***Payment Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement shall be excused by reason of Force Majeure.

6.8 **Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law**. Should (i) Owner, or any Owner Indemnified Party acting on behalf or under the control of Owner or any other Person acting on behalf or under the control of Owner, subject to Section 21.22, delay the commencement, prosecution or completion of the Work, and to the extent such delay is not attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement or such delay is caused by Owner's ordering a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1), or (ii) the commencement, prosecution or completion of the Work be delayed as a result of (1) subsurface conditions for which Contractor is entitled to adjustments to the Contract Price and/or Train 3 Project Schedule, as applicable, under Section 2.5B.2, (2) Contractor's discovery of pre-existing Hazardous Materials on the Site for which Contractor is entitled to

relief under Section 6.2A.4, (3) Changes in Law for which Contractor is entitled to relief under Section 6.2A.8, (4) Owner's interference with the Work for which Contractor is entitled to relief under Section 3.24A, (5) Owner's failure to provide natural gas feed in the amounts and at the times required by Section 4.8A(i) (unless due to Force Majeure), (6) Owner's failure to provide electricity in the amounts and at the times required by Section 4.8B(i) (unless due to Force Majeure), (7) Owner's failure to provide propane or ethylene in the amounts and at the times required by Section 4.8C (unless due to Force Majeure), (8) Owner's failure to provide LNG evacuation in accordance with Section 4.8D and 11.1C (unless due to Force Majeure) for which Contrtactor is entitled to relief under Section 4.8D, (9) Owner's failure to provide LNG Tanker loading opportunities as further set forth in Section 4.8E.1 (unless due to Force Majeure) for which Contractor is entitled to relief under such Section 4.8E.1, (10) Owner's failure to deliver the RLFC LNG Tanker for which Contractor is entitled to relief under Section 11.1D.2 or (11) a suspension of the Work for which Contractor is entitled to relief under Section 6.2A.7, then Contractor shall, with respect to any of the above, be entitled to request a Change Order for an adjustment in the Contract Price and an extension to the Train 3 Project Schedule if (w) such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule, (x) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, (y) Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and (z) Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements of Section 6.10. Any adjustment to the Contract Price shall be for reasonable, additional costs incurred by Contractor for such delay meeting the requirements of this Section 6.8, and any adjustments to the Contract Price or the Guaranteed Substantial Completion Date or Required Final Completion Date shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.8, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.8 shall be included in the Change Order incorporating such change in the Scope of Work.

6.9 **Delay**.

A. For the purposes of Sections 6.2A.1, 6.7 and 6.8, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

B. For the avoidance of doubt, the Parties recognize and agree that for the purposes of Section 6.7 and 6.8, a Work activity not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, Contractor is entitled to an extension to the Train 3 Project Schedule for those days of delay after which the non-critical path activity became a critical path activity, *provided that* such delay satisfies the other requirements under applicable Sections 6.7 and 6.8, including that such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date.

6.10 **Contractor Obligation to Mitigate Delay**. With respect to Sections 6.7 and 6.8, in no event shall Contractor be entitled to any adjustment to the Train 3 Project Schedule or adjustment to the Contract Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

6.11 **Separated Contract Price Adjustments in Change Orders**. Any adjustment by Change Order to the Contract Price which is made on a fixed price separated basis shall be separated pursuant to 34 Tex. Admin. Code Rule § 3.291(a)(13) to specify the applicable adjustments to the Tax Exempt Equipment Price, Taxable Equipment Price and Labor and Skills Price in accordance with Article 7. In addition, any such adjustment by Change Order to the Contract Price shall identify which component of the Contract Price that such adjustment is attributable to by adjusting the Train 3 Common System Contract Price Component and Train 3 Specific Contract Price Component, as applicable.

6.12 **Owner's Change Order Right to Undertake Full Scope of Expansion Facility Dock under this Agreement**.

A. ***Elimination of Expansion Facility Dock under the Train 1 EPC Agreement and the Train 2 EPC Agreement***. If, pursuant to Section 16.14A under the Train 1 EPC Agreement or the Train 2 EPC Agreement, the scope of work under the applicable Train 1 EPC Agreement or the Train 2 EPC Agreement is reduced by FLIQ1 or FLIQ2, respectively, such that T1/T2 EPC Contractor will not otherwise complete the Expansion Facility Dock, Contractor shall, within five (5) Business Days of such scope reduction, notify Owner in writing of such scope reduction. Upon Owner's receipt of such written notice from Contractor, Owner shall have one hundred and twenty (120) Days (or such other period of time as the Parties may agree upon in writing) to inform Contractor in writing whether Owner desires to assume the payment obligations which are necessary to have the Expansion Facility Dock Work continue to be performed by Contractor; *provided that*, during such time period prior to Owner's response, Owner acknowledges that the T1/T2 EPC Contractor may have the right to suspend the Expansion Facility Dock Work to the extent allowed under the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively. In the event Owner elects to assume such payment obligations for the Expansion Facility Dock Work under this Agreement, Owner shall notify Contractor of such election in writing and submit with (or promptly after) such notice a request for a Change Order in accordance with Section 6.1. Thereafter, Owner and Contractor shall proceed in accordance with Section 6.1 with a view towards executing a mutual Change Order that establishes an adjustment to the Train 3 Specific Common Systems Contract Price Component reflective of the scope of the Expansion Facility Dock Work that Owner desires Contractor to complete under this Agreement; *provided that*, to mitigate or avoid additional costs associated with a suspension in the Expansion Facility Dock Work), Owner may issue a unilateral Change Order to Contractor so that the Expansion Facility Dock Work may continue without any suspension or so that any then-suspended Expansion Facility Dock Work resumes. For purposes of clarity, the Parties acknowledge that if Owner elects to adopt the scope of the Expansion Facility Dock Work, then the adjustment to the Train 3 Specific Common Systems Contract Price Component under the Change Order shall not exceed FLIQ1 and FLIQ2's unpaid share of T1/T2 EPC Contractor's compensation associated with the

Expansion Facility Dock Work (as such compensation is tracked by the Expansion Facility Dock Price (as defined, identified and updated, from time to time, under the Train 1 EPC Agreement and the Train 2 EPC Agreement)).

B. ***Elimination of Train 3 LNG Storage Tank***. The Parties acknowledge that, in the event Owner desires to have the Expansion Facility Dock (that was being compensated under the Train 1 EPC Agreement and the Train 2 EPC Agreement) executed under this Agreement pursuant to Section 6.12A, Owner, in its sole discretion, may wish to remove the Train 3 LNG Storage Tank from the scope of Work (as part of its right to modify the scope of Work pursuant to Section 6.12A). In the event Owner so desires to remove the Train 3 LNG Storage Tank from the Scope of Work, the Parties acknowledge that the reduction in the Contract Price for the removal of such scope will be determined by subtracting (i) the reasonable value of the Work performed for the Train 3 LNG Storage Tank from (ii) the Train 3 LNG Storage Tank Price, and then reducing the Train 3 Specific Common Systems Contract Price Component by such difference.

C. ***Other Amendments to Address Termination of Train 1 EPC Agreement or Train 2 EPC Agreement***. In the event that the Parties intend to enter into a Change Order under this Section 6.12, the Parties acknowledge that such Change Order will include appropriate modifications to this Agreement to incorporate the Expansion Facility Dock Work and/or remove the Train 3 LNG Storage Tank from the Work, including adding or removing applicable Minimum Acceptance Criteria, Performance Tests, Guarantee Conditions, Scope of Work and Design Basis descriptions and referenced Drawings and Specifications, and modifying the definitions of Substantial Completion, Final Completion and other applicable defined terms herein.

ARTICLE 7
CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

7.1 **Contract Price**. As compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement, Owner shall pay and Contractor shall accept Two Billion Twenty Million U.S. Dollars (U.S.$2,020,000,000) (the "***Contract Price***"). The Contract Price is subject to adjustment only by Change Order as provided in Article 6, and includes all Taxes, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Contract Price does not include Texas state and applicable local sales and use taxes on Tax Exempt Equipment (which is subject to exemption as provided under Section 4.5A) and Taxable Equipment. The Contract Price is separated, in accordance with the definition of separated contract as defined in 34 Tex. Admin Code Rule § 3.291(a)(13), as follows:

A. Four Hundred Ten Million Thirty Three Thousand Six Hundred Ninety Nine U.S. Dollars (US$410,033,699) ("***Tax Exempt Equipment Price***") for Tax Exempt Equipment. Such Tax Exempt Equipment is listed in Attachment FF (which may be changed by Change Order in accordance with Section 4.5A.2). The Tax Exempt Equipment Price includes the cost of Tax Exempt Equipment, including markup, overhead, profit and freight, but excluding labor.

B. Three Hundred Thirty Seven Million One Hundred Ninety Five Thousand Three Hundred Thirty U.S. Dollars (US$337,195,330) (*"**Taxable Equipment Price**")* for all Equipment (including materials) to be permanently installed in the Train 3 Project (other than Tax Exempt Equipment) ("***Taxable Equipment***"). The Taxable Equipment Price includes the cost of Equipment (including markup, overhead, profit, and freight if the Vendor provides the freight, but excluding labor). Such Taxable Equipment is listed in Attachment FF.

C. One Billion Two Hundred Seventy Two Million Seven Hundred Seventy Thousand Nine Hundred Seventy One U.S. Dollars (US$1,272,770,971) ("***Labor and Skills Price***") for all Work in this Agreement other than for Tax Exempt Equipment and Taxable Equipment, which such Work includes all labor, engineering, design, services not subject to Texas state and applicable local sales and use taxes, installation, consumables, construction tools, freight, equipment rentals, overhead and all other items of whatever nature applicable to the Work. Excluding only the Tax Exempt Equipment Price and the Taxable Equipment Price, the Labor and Skills Price shall include all costs, charges and expenses of whatever nature applicable to the Work, including Taxes on all Work and Texas state and applicable local sales and use taxes on all Work other than on Tax Exempt Equipment and Taxable Equipment.

7.2 **Contract Price Components.**

A. ***Train 3 Specific Common Systems Contract Price Component***. The portion of the Contract Price allocated to Owner under this Agreement for Train 3 Specific Common Systems shall be Five Hundred Sixty Seven Million Seven Hundred Sixty Two Thousand Five Hundred Seventy Nine U.S. Dollars (U.S.$567,762,579) (the "***Train 3 Specific Common Systems Contract Price Component***"). The Train 3 Specific Common Systems Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Work associated with the Train 3 Specific Common Systems).

B. ***Train 3 Specific Contract Price Component***. The portion of the Contract Price allocated to the Train 3 Specific Work is One Billion Four Hundred Fifty Two Million Two Hundred Thirty Seven Thousand Four Hundred Twenty One U.S. Dollars (U.S.$1,452,237,421) (the "***Train 3 Specific Contract Price Component***"). The Train 3 Specific Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Train 3 Specific Work).

7.3 **Interim Payments**.

A. ***Payments***. Progress payments shall be made by Owner to Contractor in accordance with the Payment Milestone Schedule (as may be amended by Change Order pursuant to Section 6.1B or 6.2C) set forth in Schedule C-1, which allocates the payment

of the Contract Price upon completion of Payment Milestones as set forth in Schedule C-1, *provided that* Contractor is otherwise in material compliance with the terms of this Agreement. Owner shall also make payments to Contractor for any unilateral Change Orders issued in accordance with Section 6.1C or 6.2D. Each payment shall be subject to Owner's right to withhold payments under this Agreement, including Section 5.4F, 7.6 and 13.2. Payments shall be made in U.S. Dollars to an account designated by Contractor. The Payment Milestone Schedule shall be amended only by Change Order pursuant to this Agreement.

B. ***Invoices***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner an Invoice for all Payment Milestones completed during the prior Month, if any. The Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Payment Milestones and unilateral Change Order charges, other than the Invoice for final payment of Work under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Work.

C. ***Interim Lien and Claim Waivers***. Each Invoice received by Owner under this Agreement prior to Final Completion shall be accompanied by (i) fully executed Interim Lien and Claim Waivers from Contractor in the forms of Schedules K-1 and K-2 for all Work performed through the date for which payment is requested, (ii) fully executed Interim Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Interim Lien and Claim Waivers for all Major Sub-subcontractors requested in substantially the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested. Interim Lien and Claim Waivers, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Interim Lien and Claim Waivers only if they have performed Work not covered by a previous Interim Lien and Claim Waiver. Submission of all Interim Lien and Claim Waivers is a condition precedent to payment of any Invoice.

D. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Owner shall use reasonable efforts to inform Contractor of Owner's requests within ten (10) Days of Owner's receipt of such Invoice, but failure by Owner to so inform Contractor within such 10-Day period shall not waive,

alter or reduce any of Owner's rights or Contractor's obligations under this Agreement related to the Invoice. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement, including Retainage as set forth in Section 7.14), shall be due and payable thirty (30) Days after it, and all documentation required under this Agreement, is received by Owner. If an Invoice is disputed by Owner, then payment shall be made for all undisputed amounts owed by Owner and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts shall be made as soon as such dispute is resolved.

E. ***Maximum Cumulative Payments***. The Parties have agreed upon and set forth in Schedule C-2 a schedule of the maximum cumulative amounts ("***Maximum Cumulative Payment Schedule***") that Contractor is allowed to invoice Owner at any one time during the Train 3 Project for the completion of the Work, regardless of whether Contractor has completed Work (via completion of Payment Milestones) that represents amounts greater than the Maximum Cumulative Payment Schedule. The Maximum Cumulative Payment Schedule sets the maximum cap on invoiced amounts, but does not set a minimum amount that Contractor may invoice Owner, as Sections 7.3A and 7.3B specify the procedure for determining the amount of each Invoice. The Maximum Cumulative Payment Schedule shall be adjusted only by Change Order executed by both Parties.

7.4 **Final Completion and Final Payment**. Upon Final Completion, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit a fully executed final Invoice in the form attached hereto as Schedule I-2 along with (i) a statement summarizing and reconciling all previous Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Equipment, and any other indebtedness connected with the Work have been paid, including Texas state and applicable local sales and use taxes which Contractor is required under this Agreement to pay, (iii) fully executed Final Lien and Claim Waivers from Contractor in the forms of Schedules K-5 and K-6, (iv) fully executed Final Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-7 and K-8, (v) if requested by Owner, fully executed Final Lien and Claim Waivers from each Major Sub-subcontractor in substantially the forms set forth in Schedules K-7 and K-8, and (vi) to the extent not previously provided to Owner, Retainage Letters of Credit that, in the aggregate, equal the full amount of Retainage to be withheld by Owner under this Agreement. No later than thirty (30) Days after receipt by Owner of such final Invoice and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this Agreement, pay Contractor the balance of the Contract Price (including the Retainage, if Retainage Letters of Credit in the full amount of Retainage have been provided by Contractor).

7.5 **Payments Not Acceptance of Work**. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.6 **Payments Withheld**. In addition to disputed amounts set forth in an Invoice, Owner may, in addition to any other rights under this Agreement, at law or in equity and upon fifteen (15) Days prior written notice to Contractor, withhold payment on an Invoice or a portion thereof, or collect on the Letter of Credit, in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to:

A. Defective Work not remedied in accordance with this Agreement;

B. stop payment notices, liens or other encumbrances on all or a portion of the Site, the Work or the Facility, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, *provided that* Owner has made payment to Contractor of all undisputed amounts due to Contractor in accordance with the terms of this Agreement;

C. any breach by Contractor of any material provision of this Agreement;

D. the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards;

E. amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information;

F. Delay Liquidated Damages which Contractor owes under the terms of this Agreement;

G. failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts, excluding the right of Contractor to withhold payments to Subcontractors as provided under the terms of the applicable Subcontract;

H. damage or loss to the Existing Facility caused by Contractor or any of its Subcontractors or Sub-subcontractors, subject to the limitations of Contractor's liability for such damage or loss as set forth in Section 20.2; or

I. any other costs or liabilities which Owner has incurred for which Contractor is responsible, unless otherwise covered by insurance or bond in a form reasonably satisfactory to Owner, *provided that* Contractor is in compliance with its indemnity, hold harmless and defense obligations under this Agreement.

Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee or bond reasonably satisfactory to Owner in the amount of the withheld payment.

7.7 **Interest on Late Payments**. Any amounts due but not paid hereunder shall bear interest at the lesser of (i) an annual rate equal to the prime rate published by the Wall Street Journal plus two percent (2%), or (ii) the maximum rate permitted under Applicable Law.

7.8 **Work Breakdown Structure**. Within sixty (60) Days after the NTP, Contractor shall deliver to Owner for Owner's written approval a detailed breakdown of the Work by activity, with each such activity having a written description and hierarchal coding ("***Work Breakdown Structure***"). The Work Breakdown Structure shall be consistent with the Baseline CPM Schedule and the form of Work Breakdown Structure in Schedule C-3. After approval by Owner of such Work Breakdown Structure, Contractor shall have the right during the course of the Train 3 Project and upon Owner's written approval, to modify the Work Breakdown Structure, *provided that* at all times it remains consistent with the Baseline CPM Schedule. Contractor shall promptly provide Owner with copies of any revised Work Breakdown Structure.

7.9 **Payment Error**. If an error is made in connection with a payment, and such payment is an overpayment, the overpayment shall be reconciled with the next monthly Invoice, or if no further invoices are planned or the amount of such Invoices are not estimated to be of an amount to properly reconcile the error, then the Party receiving such payment in error shall promptly refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Owner under this Agreement, (i) if Owner discovers that a Payment Milestone was not in fact completed, or that Work associated with an Invoice contained Defective Work, then Owner may, at its sole discretion and upon prior written notice to Contractor, offset the amount of the payment against future payments or collect on the Letter of Credit in the amount of the payment until such Payment Milestone or correction of the Defective Work is achieved or (ii) if Owner discovers that any amounts paid by it to Contractor in a preceding Month was incorrect or lacked sufficient or accurate supporting information, then Owner may, at its sole discretion but only after giving prior written notice to Contractor, offset such amounts against future payments or collect on the Letter of Credit for such amounts until sufficient and accurate supporting information is provided pursuant to Section 7.3.

7.10 **Currency**.

A. Unless otherwise specified, all amounts contained herein are in and shall be paid in U.S. Dollars.

B. Foreign Exchange Parity.

As of the Effective Date, the Contract Price assumes the following foreign (non-U.S. Dollar) currency at the listed value and exchange rate to the U.S. Dollar:

FOREIGN CURRENCY	**VALUE IN FOREIGN CURRENCY**	**EXCHANGE RATE**
EURO	€ 86,427,000	1.08 USD TO EURO

On the date Owner issues NTP, the Contract Price shall be subject to an upward or downward adjustment by Change Order to account for currency fluctuations. This adjustment will be determined by multiplying (a) the difference of the exchange rate as quoted by the Wall Street Journal on the following website:

http://online.wsj.com/public/page/news-currency-currencies-trading.html

for the closing exchange rate on the date Owner issues NTP (the "***NTP Exchange Rate***") and the above listed exchange rate ("***Contract Exchange Rate***") by (b) the corresponding value in foreign currency listed above ("***Value of Foreign Currency***").

For clarity, the Contract Price adjustment shall be determined by the following formula:

$$Adjustment = [Value\ of\ Foreign\ Currency\ x\ [NTP\ Exchange\ Rate - Contract\ Exchange\ Rate]]$$

The Change Order implementing the foregoing adjustment shall also further itemize the adjustment, as applicable, into the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 3 Specific Contract Price Component, and Train 3 Common System Contract Price Component.

7.11 **Allowance for Nickel in 9% Nickel Steel Plate**. As of the Effective Date, the Contract Price is based upon an estimated cost for 9% nickel steel plate. In accordance with Section 6.2A.5 and as further set forth in Attachment KK, the Contract Price will be subject to an adjustment via Change Order to account for the actual 9% nickel steel cost.

7.12 **Conditions Precedent to Payment**. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner, and is maintaining (i) the Parent Guarantee and the Letters of Credit in accordance with Section 21.16 and Article 9, and (ii) the insurance policies in accordance with Article 9.

7.13 **Payments to Subcontractors**. Contractor agrees and acknowledges that, if FLIQ 1 or FLIQ2 withholds, offsets or otherwise does not make a payment to T1/T2 EPC Contractor under the Train 1 EPC Agreement or Train 2 EPC Agreement, respectively, Contractor shall prevent T1/T2 EPC Contractor from utilizing payments made by Owner under this Agreement to compensate subcontractors for work performed under the Train 1 EPC Agreement or the Train 2 EPC Agreement. Further, Contractor agrees and acknowledges that, if Owner withholds, offsets or otherwise does not make a payment to Contractor under this Agreement, Contractor shall not utilize payments made by FLIQ1 or FLIQ2 under the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively, for Work performed under this Agreement.

7.14 **Retainage and Retention Letter of Credit**.

A. ***Retainage***. Owner shall withhold from each Invoice submitted on or after NTP from Contractor an amount equal to two and one-half percent (2.5%) of the amount of each Invoice ("***Retainage***"). For amounts paid by Owner to Contractor prior to NTP that are credited against the Contract Price, Retainage for such amounts shall be withheld from the first payments made on or after NTP (in addition to any other Retainage allowed to be withheld from such first payments on or after NTP). Subject to Owner's rights under the Agreement, Retainage withheld from Invoice payments shall be released by Owner to Contractor as follows: (i) upon the first anniversary of Substantial Completion, Owner shall release a portion of the Retainage while continuing to withhold Retainage equal to the sum of (1) one and one-half percent (1.5%) of the original Contract Price plus (2) the estimated cost of correcting any outstanding Defects then-existing at such time; and (ii) upon the expiration of the Defect Correction Period, Owner shall release all remaining Retainage. Owner shall release Retainage based upon the foregoing sentence promptly after the passing of the event prompting such release but in any event within thirty (30) Days after such event and receipt from Contractor for an invoice for the release of such Retainage. Because Retention Letters of Credit may be substituted for Retainage as set forth in Sections 7.13B and 9.3, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in this Section 7.14A and reductions to the Retention Letters of Credit and releases of Retainage shall correspond in time, and in the amounts, as set forth above in this Section 7.14A.

B. ***Retention Letter of Credit as a Substitute for Retainage***. At their sole discretion, Contractor, CB&I, Zachry or Chiyoda may elect to substitute a Retention Letter of Credit, pursuant to Section 9.3, in exchange for Owner releasing previously withheld Retainage, or for Owner to forego the withholding of Retainage from the payment of an Invoice, in the amount of such Retention Letter of Credit.

1. With respect to previously withheld Retainage, if Contractor, CB&I, Zachry, or Chiyoda make an election to provide Owner with a Retention Letter of Credit, Owner shall release previously withheld Retainage promptly to the applicable party in the amount of the Retention Letter of Credit provided, after receipt of such Retention Letter of Credit and an invoice for the Retainage release (but in any event within thirty (30) Days after receipt of such Retention Letter of Credit and invoice).

2. With respect to Retainage to be withheld from a prospective Invoice payment, if Contractor, CB&I, Zachry, or Chiyoda provide Owner with a Retention Letter of Credit seven (7) or more Days prior to the payment due date of such Invoice (and such Retention Letter of Credit has an effective date no later than Owner's Invoice payment due date), Owner, unless restricted from doing so by its financing documents with its Lenders, shall not withhold that portion of the Retainage (in the amount of such Retention Letter of Credit) from the Invoice payment. In the event Contractor, CB&I, Zachry or Chiyoda provide a Retention Letter of Credit as set forth in the

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 LOSS

8.1 **Title**.

A. ***Clear Title***. Subject to Contractor's receipt of payment of undisputed amounts when due under this Agreement, Contractor warrants and guarantees to Owner that Owner will receive good and legal title to and ownership of the Work and the Train 3 Expansion shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner.

B. ***Title to Work***. Title to all or any portion of the Work (other than Work Product) shall pass to Owner upon the earlier of (i) payment therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Train 3 Expansion. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right of Owner under the Agreement.

8.2 **Risk of Loss**.

A. ***Prior to Substantial Completion***. Notwithstanding passage of title as provided in Section 8.1 of this Agreement, and except as otherwise stated in Section 8.2A.1, Contractor shall bear the risk of physical loss and damage to the Train 3 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Expansion Facility) until Substantial Completion of the Train 3 Expansion is achieved.

1. Notwithstanding Section 8.2A above, Contractor shall not be liable to Owner for any such physical loss or damage if and to the extent: (a) such physical loss or damage is not insured under the builder's risk policy or marine cargo insurance policy required to be provided by Owner under Sections 2.A.1 and 2.A.2 of Attachment O to this Agreement because of Owner's failure to maintain such policies in full force and effect at all times required under this Agreement, (b) Owner receives payment from the insurance company or companies under such policies for such physical loss or damage, (c) such physical loss or damage is not insured under the builder's risk policy because of an exclusion specified in such policy and Contractor is not otherwise liable to Owner pursuant to Section 8.2A.2, (d)

the value of such physical loss or damage exceeds the named windstorm, flood or earthquake sublimit(s) as a result of damage or loss caused by a named windstorm, flood or earthquake event, (e) the value of such physical loss or damage exceeds the monetary policy limits (including any sublimits or aggregate limits) of the builder's risk policy or (f) the physical loss or damage is caused by (1) ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste, (2) nuclear weapons material, (3) war, invasion, act of foreign enemy hostilities or warlike operations, civil war, rebellion, revolution or insurrection, (4) act of any person in connection with activities directed towards the overthrow by force of the government, (5) permanent or temporary dispossession resulting from confiscation, nationalization, commandeering or requisition by any lawfully constituted authority or (6) an act of terrorism (as defined in the builder's risk policy); *provided, however*, with respect to deductibles under the builder's risks and marine cargo insurance, Contractor shall remain liable to the Owner for the policy deductibles, regardless of fault, but not to exceed One Million Dollars (U.S.$1,000,000) per occurrence for such deductibles as specified in Section 2.B of Attachment O; *provided further, however*, with respect to the foregoing proviso, if Contractor is also liable to FLIQ1 or FLIQ2 for the builder's risks or marine cargo insurance policy deductibles under Section 8.2A.1 of the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively, for the same occurrence, then Contractor's total liability, in the aggregate, for such deductibles under this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement shall not exceed One Million Dollars (U.S.$1,000,000) per occurrence, with such liability being credited equally between Owner, FLIQ 1, and FLIQ2 (unless Owner, FLIQ 1 and FLIQ2 agree otherwise in writing). This Section 8.2A.1 shall not be interpreted to relieve Contractor of any of its other obligations or liabilities under the Agreement, including its obligations with respect to Defective Work and Corrective Work.

2. To the extent of Contractor's, Subcontractor's or Sub-subcontractor's fault, Contractor shall be liable to Owner for physical loss or damage that is not covered by the builder's risk policy to be procured by Owner under this Agreement because of any of the following exclusions to such builder's risk policy: aircraft, watercraft or vehicle, cash and money, wear, tear, erosion and corrosion, inventory and stocktaking, defects in design, plan, specification, material or workmanship, penalties and consequential loss, pollution and contamination arising out of a covered perils, contractor's plant and equipment, transmission and distribution lines, wet works, hydrocarbons, piling, electronic data, asbestos or toxic mold. Notwithstanding anything to the contrary herein, the Parties agree and acknowledge that, in the event that an insurance claim for physical loss or damage to the Train 3 Expansion is denied by the builder's risk policy insurer as a result of an exclusion listed in this Section 8.2A.2, Owner shall have the right to elect, at its own discretion, whether to dispute any such denial of the claim; *provided, however*, in the event of Owner's election to

not dispute such denial of the insurance claim, such election shall not prejudice Contractor's right to dispute same with the insurer as an additional insured under the builder's risk policy or any argument by Contractor that such exclusion was not applicable in any Dispute with Owner arising out of a claim by Owner against Contractor that Contractor is liable to Owner for the physical loss or damage pursuant to this Section 8.2A.2.

3. With respect to any physical loss or damage to the Train 3 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Train 3 Expansion), Contractor shall be entitled to a Change Order adjusting the Guaranteed Substantial Completion Date and Required Final Completion Date if and to the extent permitted under Section 6.7A.

4. To the extent Contractor does not bear the risk of physical loss or damage as described in Section 8.2A, then with respect to such physical loss or damage to the Train 3 Expansion, Contractor shall be entitled to a Change Order adjusting the Contract Price for: (i) the cost to repair, reconstruct or replace the damaged Train 3 Expansion (which such adjustment shall account for updated progress payments to Contractor to maintain cash flows consistent with the payment philosophies underlying the original progress payment terms and Maximum Cumulative Payment Schedule); (ii) the cost of debris removal, and (iii) to the extent recovered by Owner under insurance provided by Owner under Section 2.A.1 of Attachment O or to the extent otherwise directed by Owner in writing, the cost to accelerate or expedite such repair, reconstruction or replacement and stand-by costs, if any.

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.

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.

B. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-

procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage.

C. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

D. ***Unavailable Insurance***. If any insurance (including the limits, coverage, endorsements, policy terms, conditions or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Owner and Contractor shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two (2) independent advisors, including insurance brokers, of recognized international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the required amount or coverage is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party; and *provided further* that such waiver is permitted pursuant to any agreements between Owner and its Lenders. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

9.2 **Irrevocable Standby Letter of Credit**. Owner shall provide Contractor with at least ten (10) Business Days prior written notice of Owner's intent to issue NTP. Prior to Owner's issuance of NTP (or, if Owner has not provided at least 10 Business Days prior written notice of its issuance of NTP in accordance with the foregoing sentence, then within 10 Business Days after receipt of such notice), and as a condition precedent to Contractor's right to receive any payments under this Agreement, except payments expressly permitted pursuant to an LNTP, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of One Hundred and Twenty-Two Million Five Hundred Thousand U.S. Dollars (U.S.$122,500,000), and in the form of Schedule R-1, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a long-term local currency issuer credit rating of at least A- by Standard & Poor's and a long-term credit rating of at least A3 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, and at Owner's written request, Contractor shall replace the Letter of Credit

within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-1 specifying the general nature of such Default or breach or Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Letter of Credit that it has decided not to extend the Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a commercial bank meeting the requirements in this Section 9.2. Upon the achievement of Substantial Completion of the Train 3 Expansion, and Owner's acceptance and execution of the Substantial Completion Certificate in accordance with this Agreement, Owner shall return the original Letter of Credit, and any Letter of Credit amendments that have been issued, to the commercial bank that issued the Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-1 stating the Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Letter of Credit shall occur no later than five (5) Business Days after Owner's acceptance of Substantial Completion of the Train 3 Expansion. The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the Substantial Completion of the Train 3 Expansion. Partial drawings are permitted under the Letter of Credit. In addition, the Parties acknowledge that Contractor may fulfill the Letter of Credit requirements set forth in this Section 9.2 through multiple, coexistent Letters of Credit issued to Owner with the applicants of those Letters of Credit being either CB&I, Zachry, Chiyoda or Contractor; *provided that*, each of those Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Letters of Credit, in the aggregate, equal the dollar values required herein.

9.3 **Retention Letter of Credit**. Owner may withhold Retainage as provided under Section 7.14. As a condition precedent to Contractor's right to receive Retainage withheld by Owner, Contractor, in its sole discretion at any time during the course of the Train 3 Project, may deliver to Owner a retention letter of credit, naming Owner as beneficiary, in an amount not to exceed the cumulative amount withheld by Owner under Section 7.14A, in the form of Schedule R-2, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the retention letter of credit and issuing funds

on such drawing certificate, with a long-term rating of at least Investment Grade ("***Retention Letter of Credit***"). If at any time the rating of the commercial bank that issued the Retention Letter of Credit falls below either of the Investment Grade ratings, and at Owner's written request, Contractor shall replace the Retention Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the Retention Letter of Credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Retention Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-2 specifying the general nature of such Default or breach, Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Retention Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Retention Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Retention Letter of Credit that it has decided not to extend the Retention Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Retention Letter of Credit for all remaining funds in the Retention Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Retention Letter of Credit and from a commercial bank meeting the requirements in this Section 9.3. Partial drawings are permitted under the Retention Letter of Credit. The Retention Letter of Credit shall remain in full force and effect from the issuance of the Retention Letter of Credit through the expiration of the Defect Correction Period under this Agreement. After expiration of the Defect Correction Period, Owner shall return the original Retention Letter of Credit, and any Retention Letter of Credit amendments that have been issued, to the commercial bank that issued the Retention Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-2 stating the Retention Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Retention Letter of Credit shall occur no later than five (5) Business Days after expiration of the Defect Correction Period. The amount of the Retention Letter of Credit shall be reduced on the same basis that Retainage is released pursuant to Section 7.14A. No later than five (5) Business Days after the passage of an event prompting a release of Retainage as set forth in Section 7.14A, Owner shall provide the commercial bank that issued the Retention Letter of Credit with written notice of such event in the form of Annex VI of Schedule R-2 stating that such event has occurred. For purposes of clarity, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in Section 7.14A. In addition, the Parties acknowledge that Contractor may fulfill the Retention Letter of Credit requirements set forth in this Section 9.3 through multiple, coexistent Retention Letters of Credit issued to

Owner with the applicants of those Retention Letters of Credit being either CB&I, Zachry, Chiyoda or Contractor; *provided that*, each of those Retention Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Retention Letters of Credit, in the aggregate, equal the dollar values required herein (including any reductions in value as set forth herein).

9.4 **Financial Statements**. As soon as available, but in any event within sixty (60) Days after the end of each fiscal quarter of Zachry Guarantor, CB&I Guarantor, and Chiyoda Guarantor, Contractor shall deliver to Owner the unaudited and consolidated balance sheet of Zachry Guarantor, CB&I Guarantor, and Chiyoda Guarantor as of the end of such quarter, the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of each of Zachry Guarantor, CB&I Guarantor, and Chiyoda Guarantor subject to normal year-end audit adjustments. As soon as available, but in any event not later than one-hundred twenty (120) Days after the end of each fiscal year of Zachry Guarantor, CB&I Guarantor and Chyioda Guarantor, Zachry Guarantor, CB&I Guarantor and Chiyoda Guarantor shall deliver to Owner a copy of the audited consolidated balance sheets at the end of each such year as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 9.4 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

ARTICLE 10
OWNERSHIP OF DOCUMENTATION

10.1 **Ownership of Work Product**.

A. Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Train 3 Expansion done by Contractor for Owner (including any work done by Contractor through its joint venture partners CB&I and Zachry or any of its Affiliates under the FEED Agreement or any other agreements between the Parties related to the Train 3 Project), Contractor or its Affiliates, Subcontractors or Sub-subcontractors will create or have created for this Train 3 Project certain plans, operating and maintenance procedures and manuals, Drawings, Specifications, calculations, or other technical tangible manifestations of Contractor's efforts (whether written or electronic) (hereinafter individually or collectively referred to as "***Work Product***"). Subject to Sections 10.1A.1, 10.1A.2 and 10.1B below, Work Product prepared by Contractor (including any work done by Contractor through its joint venture partners CB&I and Zachry) or its Affiliates, Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Contractor, its Affiliates, Subcontractors, Sub-subcontractors or any other Person. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees that such ownership and copyrights in

the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

1. If Contractor, using commercially reasonable efforts, is unable to procure ownership of the Work Product for Owner as set forth in Section 10.1A above from any Subcontractor and Sub-subcontractor, then, at a minimum, Contractor shall procure for Owner and its Affiliates from such Subcontractors and Sub-subcontractors an irrevocable, perpetual and royalty-free license (including with right to assign its right without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in the Facility) to use, disclose, modify and copy such Work Product for any purpose relating to the Expansion Facility.

2. For the avoidance of doubt, Contractor shall not be required to obtain rights to Work Product as set forth in Section 10.1A above from Subcontractors and Sub-subcontractors providing bulk commodities or generic "off-the-shelf" Equipment.

B. Notwithstanding Section 10.1A, as among Owner, Zachry, CB&I, Chiyoda and Contractor, Zachry, CB&I and Chiyoda shall retain ownership of all proprietary Intellectual Property Rights owned by Zachry, CB&I, or Chiyoda and developed by Zachry, CB&I, or Chiyoda outside this Agreement, the FEED Agreement or any other agreements between the Parties (or their Affiliates) related to the Expansion Facility (hereinafter referred to as "***Contractor's Intellectual Property***"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in this Section 10.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary Intellectual Property Rights owned and developed by Contractor's Subcontractors or Sub-subcontractors for any project other than the Expansion Facility ("***Third Party Proprietary Work Product***"). With respect to such Contractor's Intellectual Property and Third Party Proprietary Work Product relating to the Work or the Expansion Facility, Contractor hereby grants Owner and its Affiliates an irrevocable, perpetual and royalty-free license (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use, disclose, modify and copy such Contractor's Intellectual Property and Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided, however*, and notwithstanding the foregoing, with respect to the Third Party Proprietary Work Product of APCI, BASF (to the extent of the OASE technology, products and related gas processing technology it is providing as part of the Work) and Ortloff (to the extent of the gas processing technology it is providing as part of the Work), Contractor hereby grants Owner and its Affiliates irrevocable, perpetual and royalty-free licenses (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use such Subcontractor's Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided further, however*, if Owner uses Third Party

Proprietary Work Product or Contractor Intellectual Property for purposes other than those relating to the Expansion Facility, and Owner does not procure the necessary ownership, license or rights for such use, Owner shall indemnify, defend and hold harmless the Contractor Indemnified Parties with respect to any claims, damages, losses, liabilities or other causes of action arising from such use. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 10.1 except as provided in Section 10.1A.2 above.

10.2 **Return/Delivery of Certain Property**. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Train 3 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product and (ii) Contractor's Equipment Subcontractors and Equipment Sub-subcontractors may retain any Work Product generated by them so long as Owner has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets (native and .pdf files) of documents on CD-ROM for those Drawings and Specifications generated using CAD or other digital means.

10.3 **Contractor's License in Work Product**. Owner hereby, on behalf of itself and its Affiliates, grant to Contractor an irrevocable, perpetual and royalty-free license to use, modify and copy the Work Product for any other project, except for any of the following which may be in such Work Product: (i) any proprietary intellectual property rights owned by Owner or any Affiliate of Owner; (ii) any proprietary intellectual property rights in which Owner or an Affiliate of Owner has a license; or (iii) any proprietary intellectual property rights developed during the performance of this Agreement, the FEED Agreement or any other agreement between the Parties relating to the Expansion Facility, which was derived in whole or part by participation of Owner or any Owner Affiliate. As a condition of using on another project any Work Product which Contractor has a license under this Section 10.3, Contractor shall remove from the Work Product any reference to the Expansion Facility or Owner. The foregoing license and rights to use any Work Product granted to Contractor shall be subject to any limitations imposed on Contractor by third parties which have any ownership interest in such Work Product or any proprietary intellectual property embedded therein, and Contractor shall indemnify, defend and hold the Owner Indemnified Parties harmless with respect to any claims, damages, losses, liabilities or other causes of action which relate to Contractor's use of any Work Product for any purposes other than for the Expansion Facility.

10.4 **Owner Provided Documents**. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor 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 Owner upon the earlier of Substantial Completion of the Train 3 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media and (ii) if any such Owner-provided documents are also being utilized by Contractor for purposes of the Train 1 EPC Agreement or Train 2 EPC Agreement, such documents may continue to be utilized for such purposes and returned to

Owner upon the earlier of substantial completion of the Train 1 EPC Agreement or Train 2 Expansion, as applicable, in accordance with the terms of such agreement or termination of the same.

ARTICLE 11
COMPLETION MILESTONES

11.1 **Notice and Requirements for RFSU and RLFC**.

A. ***Requirements of RFSU***. No later than eighteen (18) months after issuance of NTP, Contractor shall provide to Owner for its review and comment detailed RFSU requirements, in the form of checklists, for each Equipment system or subsystem in such designated portion of the Work. Once Contractor has incorporated all of Owner's comments and/or proposed revisions to the RFSU checklists, such RFSU checklists shall form a part of the requirements for achieving RFSU. Contractor shall comply with all requirements for RFSU set forth in this Agreement, including those requirements set forth in the definition of the term RFSU, Attachment A and Attachment V and the RFSU checklists agreed by Owner and Contractor pursuant to this Section. Upon RFSU of each system or subsystem of Equipment, Contractor shall certify to Owner in the form of Attachment L for RFSU of such system or subsystem ("***RFSU Certificate***") that all requirements under this Agreement for Ready For Start Up have occurred, including all of the requirements specified in the applicable RFSU checklist have been completed. The RFSU Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RFSU have been met.

B. ***Notice and Requirements of RLFC***. Without limitation of the foregoing or any other scheduling requirements contained in this Agreement, Contractor shall give Owner two hundred seventy (270) Days' prior written notice of a thirty (30) Day period in which it expects to achieve RLFC for the Train 3 Expansion (the "***First RLFC Window Period***"). Ninety (90) Days after such initial notice, Contractor shall give Owner a second written notice specifying a twenty one (21) Day period in which it expects to achieve RLFC (the "***Second RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Second RLFC Window Period shall be the latest possible twenty one (21) Day period within the First RLFC Window Period. Sixty (60) Days after such second notice, Contractor shall give Owner a third written notice specifying a fourteen (14) Day period falling within the Second RLFC Window Period in which it expects to achieve RLFC (the "***Third RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Third RLFC Window Period shall be the latest possible fourteen (14) Day period within the Second RLFC Window Period. Sixty (60) Days after such third notice, Contractor shall give Owner a fourth written notice specifying a five (5) Day period falling within the Third RLFC Window Period in which it expects to achieve RLFC (the "***Fourth RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Fourth Window Period shall be the latest possible five (5) Day period within the Third RLFC Window Period. Owner shall be entitled to rely on such first, second, third and fourth notices in scheduling the LNG Tankers for the purpose of loading the first cargo of LNG

for the Train 3 Expansion. In the event that Contractor at any time becomes aware or has reason to believe that its ability to achieve RLFC will be delayed beyond the applicable window period specified in the then current written notice given pursuant to this Section 11.1B, Contractor will immediately give Owner written notice of such fact and of the date on which Contractor then expects to achieve RLFC, but such notice shall not relieve Contractor of its responsibility to achieve RLFC within the then current window period. Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to achieve RLFC in accordance with this Section 11.1B. Contractor shall comply with all requirements for RLFC set forth in this Agreement, including those requirements set forth in the definition of the applicable RLFC and those set forth in Attachments A and V. To the extent not specified in Attachments A and V, the Parties shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon the requirements for achieving RLFC. At such time that the Train 3 Expansion has achieved RLFC, Contractor shall certify to Owner using the applicable RLFC Certificate that all requirements under this Agreement for RLFC have occurred. The RLFC Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RLFC have been met. Notwithstanding the foregoing and prior to the First RLFC Window Period, Contractor shall cooperate with Owner to propose an alternative notice and windowing procedure that is more cost efficient and economically feasible to Owner. If such alternative is accepted by Owner in its sole discretion, the foregoing notice and windowing procedure shall be modified by Change Order.

C. ***Notice Requirements for LNG Evacuation after RLFC.*** The notice procedures set forth in this Section 11.1C shall be utilized by Contractor and Owner to set forth the time periods within which Owner shall evacuate certain amounts of LNG from the LNG storage tanks at the Facility after the first LNG Tanker is loaded and until Substantial Completion is achieved for the Train 3 Expansion. Subject to Owner's obligations under Section 4.8E, it shall be Owner's sole discretion as to the method utilized by Owner to evacuate LNG from the LNG storage tanks within the time periods set by the procedure in this Section 11.1C. To the extent Owner fails to evacuate LNG in the amounts, and prior to the end of the firm 5-Day windows, set forth by this Section 11.1C, Owner shall have the obligations, and Contractor shall have the rights, set forth by Section 4.8D.

1. As part of Contractor's notice to Owner of the Fourth RLFC Window Period under Section 11.1B, Contractor shall provide Owner with an estimate, using GECP, of LNG volumes it expects to produce during commissioning and testing of the Train 3 Expansion up to Substantial Completion, including identifying estimated 5-Day windows within which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks in order to continue with its commissioning and testing activities. Thirty (30) Days after this written notice, Contractor shall provide Owner with another written notice updating any of the foregoing estimated LNG production volumes and 5-Day windowing periods and also identifying the

first specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks (in addition to that amount of LNG that is to be evacuated by the RLFC LNG Tanker) or the result would be, in Contractor estimation (using GECP), a material interruption in Contractor's commissioning and testing activities. Upon commencement of loading of the RLFC LNG Tanker, Contractor shall give Owner another written notice updating the estimated LNG production volumes during commissioning and testing and the estimated 5-Day windowing periods and shall also identify the second specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks. Thereafter, Contractor shall provide Owner with additional written notices no less than once per Month updating the estimated LNG production volumes for commissioning and testing and the estimated 5-Day LNG evacuation windows. In these notices, or in separate written notices, Contractor shall specifically identify subsequent, firm 5-Day windows in which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks at the Facility, with such notice being provided at least thirty (30) Days in advance of the commencement of such window. If Contractor's commissioning and testing plans change after giving a specific, firm 5-Day window for LNG evacuation, Contractor shall notify Owner as promptly as possible giving the reason for the change, identifying the new 5-Day firm window and providing Contractor's estimate, using GECP, of the effects of any other estimated 5-Day windows. Owner shall use commercially reasonable efforts to provide LNG evacuation in the updated 5-Day window, but shall not be obligated to provide evacuation in accordance with the updated windowing schedule without receiving at least thirty (30) Days prior written notice. Any LNG evacuated by Owner either in amounts greater than 125,000 m^3 of LNG and/or earlier than an established firm 5-Day window shall be credited to Owner's LNG evacuation requirements of the next firm 5-Day window.

D. ***Delay in RLFC***.

1. If (i) RLFC occurs after the Fourth RLFC Window Period or (ii) the Train 3 Expansion, through no fault of Owner, is unable to load an LNG Tanker to demonstrate RLFC, then Contractor shall have the obligation to pay RLFC Delay Liquidated Damages as follows: One Hundred Thousand U.S. Dollars (U.S.$100,000) per Day for each Day, or portion thereof, until the commencement of LNG Tanker loading (the "***RLFC Delay Liquidated Damages***"), subject to an aggregate limitation on the assessment of RLFC Delay Liquidated Damages of One Million Five Hundred Thousand U.S. Dollars (U.S.$1,500,000).

2. If Owner does not deliver the LNG Tanker to load the first cargo within the applicable Fourth RLFC Window and Contractor is ready to receive such LNG Tanker, Contractor shall be entitled to a Change Order if and to the extent permitted under Section 6.7 or 6.8, as applicable.

11.2 **Notice and Requirements for Substantial Completion**. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of Substantial Completion herein and in Attachment A and Attachment S. To the extent Contractor has not already provided written notice under Section 11.1C, Contractor shall give Owner not less than ninety (90) Days' prior written notice of its intention to commence each Performance Test, and, on the thirtieth (30^{th}) Day immediately prior to Contractor's intention to commence such testing activities, Contractor shall provide written notice to Owner. To the extent not specified in Attachment S, the Parties shall, no later than two hundred forty (240) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon final test procedures for the conduct of the Performance Tests. Contractor shall provide labor, equipment, supplies, and all other items necessary for the conduct of the Performance Tests; *provided, however*, that Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to conduct the Performance Tests. Contractor shall analyze the data obtained during all Performance Tests and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to Owner at the completion of testing. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner using the Substantial Completion Certificate that all of the requirements under this Agreement for Substantial Completion have occurred and shall provide with such Substantial Completion Certificate a Performance Test report and analysis to Owner for the Performance Tests conducted for the Train 3 Expansion in order to achieve Substantial Completion. At a minimum, each Performance Test report shall include (i) the raw data, (ii) the instrumentation utilized for the applicable Performance Tests, (iii) the procedures utilized during the Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the Minimum Acceptance Criteria Testing Conditions, as and to the extent specified in Attachment S, and (v) any other supporting information used to demonstrate that the Work has met the Minimum Acceptance Criteria and, as applicable, other requirements of this Agreement for Substantial Completion. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

11.3 **Owner Acceptance of RLFC and Substantial Completion**. Owner shall notify Contractor whether it accepts or rejects the RLFC Certificate and Substantial Completion Certificate, as the case may be, within ten (10) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such RLFC Certificate and Substantial Completion Certificate shall be evidenced by Owner's signature on the RLFC Certificate or Substantial Completion Certificate, as applicable, which shall be forwarded to Contractor with such notice. If Owner does not agree that RLFC or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days after the delivery by Owner of its notice, Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall not

relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

11.4 **Minimum Acceptance Criteria as a Condition of Substantial Completion**. As a condition of achieving Substantial Completion, Contractor shall achieve all Minimum Acceptance Criteria, as described in greater detail in this Section 11.4. The Performance Tests for determining whether the Work achieves Minimum Acceptance Criteria are described in Attachment S.

A. ***Minimum Acceptance Criteria Not Achieved***. In the event that the Work fails to achieve any of the Minimum Acceptance Criteria, as evidenced by the Performance Test results, by the Guaranteed Substantial Completion Date, as such date may be extended by Change Order as provided herein, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 13.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of six (6) months (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion for the Train 3 Expansion. If the Work has not achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor a second six (6) month Minimum Acceptance Criteria Correction Period under the same terms and conditions as the first, including the application of Section 13.2; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default at the end of either six (6) month period, Owner shall be entitled to the damages, costs, losses and expenses to which Owner is entitled under Section 16.1B. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, during the Minimum Acceptance Criteria Correction Period (or during the second six (6) month period, should Owner elect that option), then Contractor, subject to the limitations of liability set forth in Article 20, shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under this Agreement, including those under Section 13.2. During any Minimum Acceptance Criteria Correction Period, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under this Agreement, so long as such access does not unreasonably interfere with operation of the Work, the Existing Facility, the Train 1 Expansion (after substantial completion of the Train 1 Expansion) or the Train 2 Expansion (after substantial completion of the Train 2 Expansion) and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

B. ***MCHE Replacement Scenario***. Notwithstanding anything to the contrary in Section 11.4A, if (i) achievement of the LNG Production Rate MAC is the only condition remaining for the achievement of Substantial Completion, (ii) the Performance Test for the LNG Production Rate results in an LNG Production Rate of at least ninety-six percent (96%) (or greater) of the LNG Production Rate MAC and (iii) using GECP, Contractor determines that an underperforming MCHE is the sole Defect preventing achievement of the LNG Production Rate MAC and that such Defect is only capable of being corrected by replacing the Defective MCHE with a new MCHE (collectively, clauses (i) – (iii) being a "***MCHE Replacement Scenario***"), then this Section 11.4Bshall set forth the rights and obligations of the Parties with respect to Contractor's obligation to achieve the Minimum Acceptance Criteria by replacing the MCHE. For purposes of clarity, if any one of the above three (3) conditions is not met for the MCHE Replacement Scenario, or if Owner does not provide the MCHE Replacement Scenario Verification Notice (described below), the Parties' rights and obligations with respect to a failure to meet the Minimum Acceptance Criteria are as set forth in Section 11.4A.

1. If Contractor determines that a MCHE Replacement Scenario has occurred, it will provide written notice to Owner with sufficient evidence for Owner to objectively verify that a MCHE Replacement Scenario has occurred. Such written notice shall be accompanied by a Substantial Completion Certificate in the form of Attachment M, modified in a manner acceptable to Owner, identifying the occurrence of an MCHE Replacement Scenario but certifying that all other aspects of Substantial Completion have been achieved. Owner shall respond to Contractor's written notice within ten (10) Days after Owner's receipt of such notice being provided in accordance with this Section 11.4B.1, and Owner's response will either verify that a MCHE Replacement Scenario has occurred (the "***MCHE Replacement Scenario Verification Notice***") or provide an explanation, in reasonable detail, as to why the MCHE Replacement Scenario has not occurred. If Owner provides an MCHE Replacement Scenario Verification Notice to Contractor, Contractor shall promptly develop a plan for Owner's approval (not to be unreasonably withheld) for ordering and installing a new MCHE to replace the Defective MCHE on a timely basis.

2. If Owner provides the MCHE Replacement Scenario Verification Notice, Contractor shall install, commission and test the new MCHE, and Contractor shall cause the LNG Production Rate MAC to be achieved, within twenty-five (25) months after the earlier of (a) order placement of the replacement MCHE and (b) the Guaranteed Substantial Completion Date (such 25-month time period being the "***Replacement Timeline***"). To the extent that Substantial Completion Delay Liquidated Damages would be assessed against Contractor during the Replacement Timeline in accordance with Section 13.2A, such Substantial Completion Delay Liquidated Damages shall be temporarily suspended and, in lieu thereof, the MCHE Replacement Delay Liquidated Damages shall apply as follows:

(i) for an LNG Production Rate equal to ninety-six percent (96%) of the LNG Production Rate MAC, liquidated damages of Forty Thousand U.S. Dollars (U.S.$40,000) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(ii) for an LNG Production Rate equal to one hundred percent (100%) of the LNG Production Rate MAC, liquidated damages of Zero U.S. Dollars (U.S.$0) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE); and

(iii) for an LNG Production Rate falling between 96% of the LNG Production Rate MAC and 100% of the LNG Production Rate MAC, liquidated damages shall be linearly proportional between the two points created by clauses (i) and (ii) above and such liquidated damages shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(collectively, the foregoing liquidated damages shall be considered the "***MCHE Replacement Delay Liquidated Damages***"). For purposes of clarity, the MCHE Replacement Delay Liquidated Damages are subject to the limitation on Contractor's liability for Delay Liquidated Damages set forth in Section 20.3.

3. If, during the Replacement Timeline, the LNG Production Rate increases from the rate determined by the LNG Production Rate Performance Test used to initially determine the MCHE Replacement Delay Liquidated Damages (as evidenced by a subsequent LNG Production Rate Performance Test or as mutually agreed by the Parties through actual measurements and/or calculations), the MCHE Replacement Delay Liquidated Damages shall be reduced in accordance with Section 11.4B.2 above.

4. MCHE Replacement Delay Liquidated Damages shall cease to be assessed against Contractor upon the earlier of (a) the end of the Replacement Timeline and (b) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE). If, at such time, Substantial Completion has not been achieved, and the Guaranteed Substantial Completion Date has passed, Substantial Completion Delay Liquidated Damages (as applicable) shall be assessed against Contractor in accordance with Section 13.2 until Substantial Completion is achieved.

5. During the Replacement Timeline, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under the Agreement and replace the Defective MCHE with the replacement MCHE, so long as such access does not unreasonably interfere with operation of the Work, the Existing Facility, the Train 1 Expansion (after substantial completion of the Train 1 Expansion) or the Train 2 Expansion (after substantial completion of the Train 2 Expansion) and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

6. If Owner verifies that a MCHE Replacement Scenario has occurred, Owner shall accompany its MCHE Replacement Scenario Verification Notice provided pursuant to Section 11.4B.1 with a written provisional acceptance of the Substantial Completion Certificate, modified in accordance with Section 11.4B.1 (such provisional acceptance being a "***Provisional Substantial Completion***"). Upon acceptance by Owner of Provisional Substantial Completion, (a) risk of loss shall transfer to Owner pursuant to Section 8.2B as if Substantial Completion had been achieved, (b) the Defect Correction Period, and Contractor's obligations to perform Corrective Work, shall commence as further described in the definition of "Defect Correction Period" and Article 12 and (c) Contractor's liability for damage or destruction of any Equipment of the Train 3 Expansion shall be set forth pursuant to Section 20.2 as if such Equipment had achieved Substantial Completion. In addition, upon providing Provisional Substantial Completion and notwithstanding Sections 11.8 and 11.9, Owner shall take over care, custody and control of the operations and maintenance of the Train 3 Expansion as if it had achieved Substantial Completion. Other than as set forth in this Section 11.4B.6, however, all of Contractor's and Owner's other rights and obligations under this Agreement shall remain in force as if Substantial Completion has not been achieved, including maintaining the amounts under the Letter of Credit as if the Train 3 Expansion had not yet achieved Substantial Completion. Further, the Defect Correction Period of any Work performed after Provisional Substantial Completion (including the replacement MCHE) shall commence upon achievement of Substantial Completion and shall continue for a period of eighteen (18) months after achievement of Substantial Completion (and the thirty (30) month period in Section 12.3B shall also run from Substantial Completion of the Train 3 Expansion).

7. Notwithstanding any acceptance by Owner of Provisional Substantial Completion in accordance with this Section 11.4B, in the event

that the replacement MCHE fails to achieve the LNG Production Rate MAC, Owner shall have the rights, and Contractor shall have the obligations, set forth in Section 11.4A (except that in such case the Minimum Acceptance Correction Period(s) will have been deemed to have already expired).

11.5 **Punchlist**.

A. ***Punchlist for RFSU.*** Prior to RFSU for each system or subsystem of Equipment or the Work, Owner and Contractor shall inspect such Work, and Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve RFSU. Upon Contractor's completion or correction of any items necessary to achieve RFSU and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for such system or subsystem of Equipment or the Work up to RLFC.

B. ***Punchlist for RLFC.*** After RFSU and prior to RLFC, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed updated, revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, revised Punchlist or otherwise that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that the Train 3 Expansion will achieve RLFC. Upon Contractor's completion or correction of any items necessary to achieve RLFC, and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items up to Substantial Completion.

C. ***Punchlist for Substantial Completion***. After RLFC and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall

promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist (as modified by any Owner additions), including agreement on the reasonable cost to perform such Punchlist Work, such Punchlist shall govern Contractor's performance of the Punchlist items up to Final Completion; *provided, however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of the Agreement. Provided Owner gives Contractor access to the Facility as set forth below, all Work on the Punchlist shall be completed no later than sixty (60) Days after achievement of Substantial Completion (or such longer period of time as the Parties may mutually agree in writing), or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work at the expense of Contractor. In the event Owner elects to complete such Punchlist Work, Contractor shall immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs and expenses incurred in performing such Punchlist Work, not to exceed one hundred fifty percent (150%) of the agreed cost to perform such Punchlist Work. If Contractor performs any Punchlist Work, Owner shall provide Contractor with reasonable access to the Facility, and will de-energize and de-pressure the applicable Equipment sufficient for Contractor to perform its Punchlist activities, so long as such activities do not unreasonably interfere with the operation of the Facility and subject to any reasonable security and safety requirements of Owner.

11.6 **Notice and Requirements for Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within ten (10) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice. If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice (or within such additional time as mutually agreed to by the Parties in writing), Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18, subject to the Parties' rights and obligations under Section 11.5C.

11.7 **Partial Occupancy**. Prior to Contractor's achieving Substantial Completion, Owner, upon providing thirty (30) Days' written notice to Contractor specifying the occupation

it intends to assume, may occupy all or any portion of the buildings for the Train 3 Expansion then capable of being safely occupied, *provided that*, such occupancy is authorized by the Governmental Instrumentality (to the extent such authorization is necessary) and Owner's insurance company or companies providing property insurance and builder's risk coverage have consented to such partial occupancy (to the extent such consent is necessary). Contractor shall assist Owner and take reasonable steps in obtaining consent of the insurance company or companies and applicable Government Instrumentalities. Immediately prior to such partial occupancy, Owner and Contractor shall jointly inspect the building to be occupied in order to determine and record the condition of the building and all personnel and environmental safety aspects of the building. Without limitation of the foregoing, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is occupying a building (or portion thereof). For any building (or portion thereof) that Owner occupies pursuant to this Section 11.7, the Defect Correction Period for that building (or portion thereof) shall commence upon Owner's occupancy of such building (or portion thereof) and the risk of loss for such building (or portion thereof) shall transfer to Owner, notwithstanding Section 8.2A; *provided that*, the risk of loss shall not transfer, and the Defect Correction Period shall not commence, for any Equipment housed within such building or portion thereof (other than HVAC and lighting).

11.8 **Operations Activities**. Prior to Substantial Completion of the Train 3 Expansion, but after RLFC has been achieved, Contractor shall, to the extent reasonably possible, assist Owner in the operations and maintenance of the Train 3 Expansion in accordance with Owner's reasonable requests and all Permits, including with respect to the performance of activities in connection with (i) the berthing of LNG Tankers and loading of LNG; (ii) the receipt of natural gas feed; (iii) producing LNG; and (iv) such other activities as reasonably requested by Owner (each, an "***Operations Activity***" and, collectively, the "***Operations Activities***"). Contractor shall not have the obligation to follow Owner's requests for any Operations Activity if such Operations Activity adversely impacts Performance Testing or repairs to the Train 3 Expansion or impacts the ability to safely operate the Train 3 Expansion in accordance with the requirements of this Agreement. Contractor shall promptly provide notice to Owner informing Owner whether it can comply with Owner's requests and the reason if it cannot so comply. Contractor's performance of the Operations Activities shall not in any way release Contractor from any obligations or liabilities pursuant to this Agreement, including its obligations to meet Substantial Completion and Final Completion. Notwithstanding anything to the contrary in this Section, any restrictions concerning Operations Activity shall not apply to the scheduling and berthing of LNG Tankers or the loading or unloading of LNG to or from the LNG Tankers after any LNG Tankers have been called or scheduled

11.9 **LNG Tankers Calling on the Facility**. Notwithstanding Section 11.8, Contractor acknowledges that certain Operations Activities may involve the berthing, loading or unloading of LNG Tankers (other than the LNG Tankers calling on the Facility for the first load of the Train 3 Expansion or for Performance Testing), including Operations Activities in connection with the commercial operations of the Train 1 Expansion and the Train 2 Expansion. Owner shall give Contractor at least fourteen (14) Days prior written notice of the berthing, loading or unloading of such LNG Tankers. Any restrictions concerning Operation Activities shall not apply to the scheduling and berthing of such LNG Tankers or the loading of

LNG to such LNG Tankers. Owner and Contractor shall develop a written plan to avoid or minimize impacts, if any, to the Work which would be caused by the berthing, loading or unloading of such LNG Tankers.

11.10 **Long-Term Obligations**. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of RFSU, RLFC, Substantial Completion or Final Completion, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations, any liabilities for which insurance is required or any other responsibility of Contractor, including the payment of any and all fines and penalties assessed as a result of Contractor's failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 11 shall in any way modify or alter Contractor's obligations under Article 12 and Article 13 hereof.

ARTICLE 12
WARRANTY AND CORRECTION OF WORK

12.1 **Warranty**.

A. ***General***. The warranties set forth in this Article 12 (collectively, the "***Warranty***" or "***Warranties***") are in addition to any of the Minimum Acceptance Criteria or Performance Guarantees set forth in this Agreement. Any Work, or component thereof, that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

B. ***Warranty of Work***. Contractor hereby warrants that the Work, including Equipment, and each component thereof shall be:

1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;

2. in accordance with all of the requirements of this Agreement, including in accordance with GECP, Applicable Law and Applicable Codes and Standards;

3. free from encumbrances to title, as set forth in greater detail in Section 8.1;

4. free from defects in design, material and workmanship; *provided that*, tolerances in material and workmanship allowable by Applicable Law or Applicable Codes and Standards shall not be considered a defect unless the Scope of Work sets forth stricter tolerances; and

5. with respect to Equipment or any component of Equipment, unless otherwise specifically agreed in writing by Owner by Change Order,

composed and made of only proven technology, of a type in commercial operation at the Effective Date of this Agreement, with conditions substantially similar to those contained herein; *provided that* Owner's agreement for Contractor to use any Equipment not in compliance with this Section 12.1B.5 shall not relieve Contractor of any of its obligations under this Agreement.

C. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work. All such warranties shall be deemed to run to the benefit of Owner and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be enforceable by Owner upon Substantial Completion. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 12 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument.

D. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by Owner; (ii) operation, maintenance or use of Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Contractor to Owner; (iii) normal wear and tear; or (iv) erosion or corrosion as a result of environmental elements not reasonably expected given the location of the Site.

12.2 **Correction of Work Prior to Substantial Completion**.

A. ***General Rights***. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon

receipt of such written notice, Contractor shall, at its own expense, promptly correct such Defective Work, whether by repair, replacement or otherwise. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such dispute. If it is later determined that the Work was not Defective, then Owner shall reimburse Contractor for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact the repair or replacement may have had on the Train 3 Project Schedule. If Contractor fails, after a reasonable period of time not to exceed one (1) week, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor may repair or replace such Defective Work and the expense thereof shall be paid by Contractor; *provided, however*, if the Defective Work materially affects the operation or use of the Existing Facility, the Train 1 Expansion (after its has achieved RLFC under the Train 1 EPC Agreement), the Train 2 Expansion (after its has achieved RLFC under the Train 2 EPC Agreement) or the Train 3 Expansion (after it has achieved RLFC), or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty-four (24) hours after receipt of notice of such Defective Work, and thereafter continue to proceed diligently to complete the same, or Owner may repair or replace such Defective Work and the expense thereof shall be paid by Contractor.

B. ***Witness Points***. Contractor shall provide Owner a proposed list of witness points for each item of Equipment for Owner's review and prior written approval no later than thirty (30) Days' after placement of the applicable Subcontract for such item of Equipment, and Owner shall notify Contractor which of the witness points it wishes its personnel to witness. Contractor shall provide Owner with at least thirty (30) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Owner's right of inspection as set forth herein applies only to its witnessing of witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion on the Work (including Equipment) at any time in its sole discretion and in accordance with this Agreement.

C. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 12.2A and 12.2B shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

D. ***Cost of Disassembling***. 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 Owner if such Work is found to

conform with the requirements of this Agreement and by Contractor if such Work is found to be Defective.

12.3 **Correction of Work After Substantial Completion**. If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work, whether by repair, replacement or otherwise, including any and all obligations in connection with such repair, replacement or otherwise, such as in and out costs, storage, labor, Taxes, transportation and expediting costs and any other costs necessary to fully correct the Work (collectively, the "***Corrective Work***"). Owner shall provide Contractor with access to the Facility, and will de-energize and de-pressure the applicable Equipment, sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the construction or operation of the Facility and subject to any reasonable security or safety requirements of Owner. In the event Contractor utilizes spare parts owned by Owner in the course of performing the Corrective Work, Contractor shall supply Owner free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by Contractor as soon as possible following the utilization of such spare parts. Unless otherwise allowed by Owner in writing, Contractor will maintain at least one (1) Contractor's representative at the Site during the Defect Correction Period to assist in coordinating the resolution of any Defective Work.

A. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (including notification to Owner of its implementation plan to perform the Corrective Work) within a reasonable period of time not to exceed five (5) Days after receipt of Owner's written notice to Contractor identifying and describing with reasonable specificity that portion of Work that is Defective, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work, and Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses; *provided, however*, if any Defective Work materially affects the construction, operation or use of any of the Work or the Facility or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work without giving prior written notice to Contractor, and, in such event, Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses.

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.

C. ***Standards for Corrective Work***. All Corrective Work shall be performed subject to the same terms and conditions under this Agreement as the original Work is required to be performed. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Owner.

D. ***No Limitation***. Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the Defect Correction Period relates only to the specific obligation of Contractor to perform Corrective Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work.

12.4 **Assignability of Warranties**. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

12.5 **Waiver of Implied Warranties**. EXCEPT FOR ANY EXPRESS WARRANTIES UNDER THIS AGREEMENT (INCLUDING THE WARRANTIES), THE PARTIES HEREBY DISCLAIM ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY IMPLIED WARRANTY OF HABITABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 13
GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

13.1 **Guarantee of Timely Completion**. Contractor specifically acknowledges that time is of the essence as to the Guaranteed Substantial Completion Date, Guaranteed Record As-Built Delivery Date and the dates for when Contractor is required to be ready under this Agreement to load the LNG Tanker for RLFC.

13.2 **Delay Liquidated Damages**.

A. ***Delay in Substantial Completion***. If Substantial Completion occurs after the Guaranteed Substantial Completion Date, Contractor shall pay to Owner the amounts listed in Attachment E per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Substantial Completion Delay Liquidated Damages***").

B. ***Delay in Achieving Record As-Built Delivery Requirement***. If the Record As-Built Delivery Requirement occurs after the Guaranteed Record As-Built Delivery Date, Contractor shall pay to Owner Ten Thousand Dollars per Day for each Day, or portion thereof, of delay until the Record As-Built Delivery Requirement is achieved (the "***Record As-built Delivery Requirement Delay Liquidated Damages***").

C. ***RLFC Delay Liquidated Damages***. RLFC Delay Liquidated Damages shall be assessed in accordance with Section 11.1D and paid in accordance with Section 13.2E.

D. ***MCHE Replacement Delay Liquidated Damages***. MCHE Replacement Delay Liquidated Damages shall be assessed in accordance with Section 11.4B.2 and paid in accordance with Section 13.2E.

E. ***Payment of Delay Liquidated Damages***. With respect to any Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within thirty (30) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages. In addition, with respect to the achievement of Substantial Completion, Contractor shall pay Owner all Delay Liquidated Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

ARTICLE 14
CONTRACTOR'S REPRESENTATIONS

Contractor, CB&I, Zachry and Chiyoda represent and warrant, as applicable, that:

14.1 **Corporate Standing**. Contractor is a joint venture duly organized, validly existing and in good standing under the laws of the State of Texas; CB&I is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas; Zachry is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; Chiyoda is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington and each is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

14.2 **No Violation of Law; Litigation**. Each is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best of its knowledge) threatened against Contractor, CB&I, Zachry or Chiyoda that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, CB&I, Zachry or Chiyoda, or the ability of any of them to perform under this Agreement.

14.3 **Licenses**. Contractor is either the holder of all Permits, or will acquire all Permits required to permit it to operate or conduct its business as required by Section 3.12.

14.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the charter or by-laws of Contractor, CB&I, Zachry, Chiyoda, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor, CB&I, Zachry, or Chiyoda, is a party or by which any of them are bound or to which any of them are, or any of their property or assets is, subject, or constitute a default under any such agreement or instrument.

14.5 **Corporate Action**. Each has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of each; and this Agreement has been duly and validly executed and delivered by each and constitutes a legal, valid and binding obligation of Contractor, CB&I, Zachry, and Chiyoda, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

14.6 **Financial Solvency**. Each is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Each Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.16 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.16.

ARTICLE 15
OWNER'S REPRESENTATIONS

Owner represents and warrants that:

15.1 **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2 **No Violation of Law; Litigation**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.3 **Licenses**. It is the holder of (or is a beneficial user of) or will take the necessary action to obtain, or cause to be obtained, all Permits under Attachment Q.

15.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the operating agreement or by-laws of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.5 **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.6 **Financing and Payment**. Owner has obtained financing, or will obtain financing prior to or upon issuance of NTP, from one or more Lenders to enable it to pay all debts as they mature and perform its payment obligations under this Agreement.

ARTICLE 16
DEFAULT, TERMINATION AND SUSPENSION

16.1 **Default by Contractor**.

A. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) repeatedly fail to prosecute the Work in a diligent, efficient, workmanlike, skillful and safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) effect an Abandonment of the Train 3 Project; (iv) repudiate any of its material obligations under the Agreement; (v) repeatedly fail to use an adequate amount or quality of personnel or equipment to perform and complete the Train 3 Project without delay; (vi) be in Default pursuant to Section 5.4F, 11.4A or 21.7; (vii) fail to maintain insurance required under this Agreement; (viii) fail to provide or maintain the Letters of Credit or the Parent Guarantee in accordance with Section 9.2 or Section 21.16, respectively; (ix) fail to discharge or bond liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (x) cause, by any action or omission, any material stoppage or delay of or interference with the operations of the Existing Facility, Train 1 Expansion (after substantial completion under the Train 1 EPC Agreement) or the Train 2 Expansion (after substantial completion under the Train 2 EPC Agreement), except as allowed under Section 3.25 for each; (xi) fail to make payment to Subcontractors for labor or materials owed in accordance with the respective Subcontracts; (xii) disregard Applicable Law or Applicable Codes and Standards; (xiii) fail to comply with any material provision of this Agreement; or (xiv) itself or the Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection (each of the foregoing being a "***Default***") then (following Owner's written notice to Contractor specifying the general nature of the Default, unless Contractor cures such

condition within the applicable Cure Period, if any, set forth below) Owner, at its sole option and without prejudice to any other rights that it has under this Agreement, but remaining subject to the limitations of liability set forth in Article 20, may (1) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all reasonable, additional costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation expenses) incurred by Owner in connection therewith, (2) terminate for Default Contractor's performance of all or any part of the Work, or (3) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Notwithstanding the foregoing, Owner shall not be entitled to terminate Contractor as a result of a delay in achieving Substantial Completion during the first six (6) months after the Guaranteed Substantial Completion Date; *provided that* Owner shall be entitled to terminate Contractor prior to the expiration of such six (6) month period if (i) Contractor is not paying to Owner when owed Delay Liquidated Damages during such six (6) month period or Contractor is not diligently performing the Work and (ii) Owner is otherwise entitled to terminate Contractor under this Section 16.1A. In addition, Owner shall not be entitled to terminate Contractor for anticipatory delay in achieving Substantial Completion unless, based on the current progress of the Work, Contractor is projected to achieve Substantial Completion six (6) months or more beyond the Guaranteed Substantial Completion Date, *provided that* Owner shall be entitled to terminate Contractor at any time if Contractor is not diligently performing the Work and Owner is otherwise entitled to terminate Contractor under this Section 16.1A.

1. Contractor shall have the following time periods to cure Defaults identified by Owner pursuant to Section 16.1A (as applicable, the "***Cure Period***"): (A) for items (i), (ii), (iii), (iv), (v), (x), and (xiii) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default, *provided that*, if, due to the nature of the Default, it cannot be cured by exercising all practicable diligence within such 30-Day period, Contractor shall cure the Default as soon as reasonably practicable but, in any event, not more than sixty (60) Days after receipt of written notice from Owner of the Default (unless otherwise expressly agreed upon by the Parties in writing); (B) for items (vii), (viii), (ix), (xi) and (xii) in Section 16.1A, Contractor shall cure the Default within fourteen (14) Days after receipt of written notice from Owner of such Default; (C) for a Default pursuant to Section 5.5H via item (vi) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default; (D) for a Default pursuant to item (xiv) in Section 16.1A or pursuant to Section 11.4A via item (vi) in Section 16.1A, no Cure Period shall be provided and Owner's right to terminate shall be exercisable immediately upon Contractor being provided written notice of Default; and (E) for a Default pursuant to Section 21.7 via item (vi) in Section 16.1A, Contractor shall cure the Default within five (5) Business Days after receipt of written notice from Owner of such Default.

B. ***Additional Rights of Owner Upon Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1A, then Owner

may, at its sole option, (i) enter onto the Site and, for the purpose of completing the Work, take possession of all equipment, tools, supplies, scaffolding and machinery rented by Contractor and all Equipment, Books and Records and Work Product, (ii) take assignment of any or all of the Subcontracts, and/or (iii) complete the Work either itself or through others. If the unpaid balance of the Contract Price shall exceed all damages, costs, losses and expenses incurred by Owner (including all attorneys' fees, consultant fees and litigation expenses, costs to complete the Work, Delay Liquidated Damages and any and all damages for failure of performance and cost of financing or interest on such expense from the date such expense was incurred by Owner at the rate specified in Section 7.7), then such excess shall be paid by Owner to Contractor, but such amount shall not be paid until after Final Completion has been achieved. If such amount incurred by Owner shall exceed the unpaid balance of the Contract Price, then, at Owner's sole option, Contractor shall pay Owner the difference within thirty (30) Days after written notice of the demand, or Owner shall have the right and authority to offset or collect on the Letter of Credit in the amount of such difference. Subject to Article 20, Contractor's liability under this Section 16.1B is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination for Default, including the obligations to act reasonably promptly in replacing Contractor with a substitute contractor. In the event of a termination for Default, the Parties agree that Owner shall be entitled to all damages, losses and reasonable costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages; *provided that* Contractor's maximum liability under this Article 16 is limited by the limitations of liability set forth in Article 20, including, for Delay Liquidated Damages, as provided by Section 20.3A. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for purposes of this Section 16.1B, and with respect to Substantial Completion that was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion or, using GECP, should have achieved Substantial Completion under the circumstances.

C. ***Obligations Upon Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) inventory, maintain and turn over to Owner all equipment, machinery, materials, tools, supplies and scaffolding rented by Contractor or provided by Owner for performance of the terminated Work, (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as

may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations under Section 16.1B.

16.2 **Termination for Convenience by Owner**. Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts, (iv) assist Owner in the maintenance, protection, and disposition of Work in progress, (v) cooperate with Owner for the efficient transition of the Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards and Owner may, at its sole option, take assignment of any or all of the Subcontracts. Contractor shall be paid (1) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement) prior to termination, less that portion of the Contract Price previously paid to Contractor (including down payments, if any, made under this Agreement), plus (2) reasonable close-out costs (plus profit and general and administrative expenses for such costs) submitted in accordance with this Section, plus (3) reasonable costs (plus profit and general and administrative expenses for such costs) for demobilizing Contractor, Subcontractor and Sub-subcontractor personnel, construction equipment and temporary facilities from the Site to their point of origin, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable close-out and demobilization costs to Owner for verification and audit within one hundred twenty (120) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of One Hundred U.S. Dollars (U.S.$100) for its undertaking to perform. With respect to payments regarding Payment Milestones, the Parties recognize and agree that the amount and timing of the Payment Milestone payments have been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under the Payment Milestones. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for such Payment Milestones performed but instead shall be entitled to the value of the Work actually performed.

16.3 **Suspension of Work**. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to

minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Expansion Facility Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the Train 3 Project Schedule if and to the extent permitted under Section 6.8. Upon receipt of notice to resume suspended Work, Contractor shall promptly resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 **Suspension by Contractor**. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, subject to Owner's right to withhold or offset payment to Contractor under this Agreement, if Owner fails to pay undisputed amounts due and owing to Contractor and Owner has failed to cure such failure within thirty (30) Days following Contractor's written notice to Owner to cure such failure, Contractor may suspend performance of the Work until Contractor receives such undisputed amounts. Contractor shall be entitled to a Change Order for any costs incurred by Contractor resulting from such suspension and shall be entitled to an extension in the Train 3 Project Schedule to the extent permitted under Section 6.8.

16.5 **Termination by Contractor**. Contractor may terminate this Agreement if, continuing at the time of such termination, Contractor has stopped the performance of all Work under this Agreement pursuant to Section 16.4 for thirty (30) Days, and after the expiration of such thirty (30) Day period, Contractor gives Owner written notice specifying the nature of the default and its intent to terminate the Agreement, and Owner fails to cure such default within thirty (30) Days after receipt of Contractor's notice. In the event of any such termination under this Section 16.5, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 in the event of an Owner termination for convenience. This Section 16.5 and Sections 16.6 and 21.7 set forth Contractor's only rights to terminate this Agreement.

16.6 **Termination Due to Extended Force Majeure**. Contractor may terminate this Agreement by providing written notice to Owner of its intent to terminate the Agreement in the event a single event of Force Majeure prevents performance of all of the Work for a period of time in excess of ninety (90) Days, unless prior to the expiration of such ninety (90) Day period Owner agrees to pay Contractor's reasonable standby costs incurred by Contractor after the expiration of such ninety (90) Days, which shall be documented by Change Order. If Owner agrees to pay such reasonable standby costs and commences paying such reasonable standby costs, then Contractor shall not be entitled to terminate the Agreement until the expiration of a total of three hundred sixty-five (365) Days. In the event of any termination

under this Section 16.6, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 regarding a termination for convenience.

ARTICLE 17
INDEMNITIES

17.1 **General Indemnification**. IN ADDITION TO ITS INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS CONTAINED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND OWNER INDEMNIFIED PARTIES FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY OF THE FOLLOWING:

A. ACTUAL OR ALLEGED FAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT;

B. SUBJECT TO SECTION 17.4, ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B;

C. ACTUAL OR ALLEGED CONTAMINATION, SPILL, RELEASE, DISCHARGE OR POLLUTION ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ONTO THE SITE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, OR ANY INCREASED CONTAMINATION OR POLLUTION CAUSED BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR DUE TO THE FAILURE TO STOP WORK UPON DISCOVERING ANY PRE-EXISTING HAZARDOUS MATERIALS WHICH CONTRACTOR OR SUCH SUBCONTRACTOR OR SUB-SUBCONTRACTOR KNOWS OR REASONABLY SUSPECTS TO BE HAZARDOUS MATERIAL;

D. CLAIMS BY ANY GOVERNMENTAL INSTRUMENTALITY AS A RESULT OF A FAILURE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TO PAY TAXES FOR WHICH IT IS RESPONSIBLE UNDER THIS AGREEMENT;

E. FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT; OR

F. BODILY INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO THE WORK, TO THE EXTENT CAUSED BY THE

NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

17.2 **Injuries to Contractor's Employees and Damage to Contractor's Property**. NOTWITHSTANDING THE PROVISIONS OF SECTION 17.1F, CONTRACTOR SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR OR SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY EMPLOYEE, OFFICER OR DIRECTOR OF ANY OF THEM, REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF AN OWNER INDEMNIFIED PARTY.

17.3 **Injuries to Owner's Employees and Damage to Owner's Property**. OWNER SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS, DIRECTORS OF ANY OWNER INDEMNIFIED PARTY OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF OWNER INDEMNIFIED PARTIES (EXCLUDING THE WORK, THE EXPANSION FACILITY AND THE EXISTING FACILITY), REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF ANY CONTRACTOR INDEMNIFIED PARTY.

17.4 **Owner's Patent and Copyright Indemnification**. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS ATTRIBUTABLE TO PROCESSES PRACTICED BY OWNER IN THE OPERATION OF THE EXISTING FACILITY, UNLESS SUCH PROCESS IS UNDERTAKEN AS REQUIRED IN WRITING BY CONTRACTOR (OR REQUIRED UNDER THE SCOPE OF WORK) TO FACILITATE THE PERFORMANCE OF THE WORK OR THE OPERATION OF THE EXPANSION FACILITY.

17.5 **Contractor's Patent and Copyright Indemnification**. IN THE EVENT THAT ANY SUIT, CLAIM, TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IS GRANTED IN CONNECTION WITH SECTION 17.1B, CONTRACTOR SHALL, IN ADDITION TO ITS OBLIGATION UNDER SECTION 17.1B, 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, CONTRACTOR SHALL PROMPTLY MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE, AT NO COST TO OWNER, AUTHORIZING CONTINUED USE OF THE INFRINGING WORK. IF CONTRACTOR IS UNABLE TO SECURE SUCH A LICENSE WITHIN A REASONABLE TIME, CONTRACTOR 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. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B.

17.6 **Lien Indemnification**. SHOULD ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY OTHER PERSON ACTING THROUGH OR UNDER CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR FILE A LIEN OR OTHER ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE WORK, THE SITE OR THE FACILITY, CONTRACTOR SHALL, AT ITS SOLE COST AND EXPENSE, REMOVE AND DISCHARGE, BY PAYMENT, BOND OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE WITHIN TWENTY (20) DAYS AFTER THE FILING OF SUCH LIEN OR ENCUMBRANCE, *PROVIDED THAT*, OWNER HAS MADE PAYMENT TO CONTRACTOR OF ALL UNDISPUTED AMOUNTS OWED TO CONTRACTOR IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF CONTRACTOR FAILS TO REMOVE AND DISCHARGE ANY SUCH LIEN OR ENCUMBRANCE WITHIN SUCH TWENTY (20) DAY PERIOD, THEN OWNER MAY, IN ITS SOLE DISCRETION AND IN ADDITION TO ANY OTHER RIGHTS THAT IT HAS UNDER THIS AGREEMENT, AT LAW OR EQUITY, TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

A. REMOVE AND DISCHARGE SUCH LIEN AND ENCUMBRANCE USING WHATEVER MEANS THAT OWNER, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE, INCLUDING THE PAYMENT OF SETTLEMENT AMOUNTS THAT IT DETERMINES IN ITS SOLE DISCRETION AS BEING NECESSARY TO DISCHARGE SUCH LIEN OR ENCUMBRANCE. IN SUCH CIRCUMSTANCE, CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES, AND SETTLEMENT PAYMENTS) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH REMOVAL AND DISCHARGE. ALL SUCH DAMAGES, COSTS, LOSSES AND EXPENSES SHALL BE PAID BY CONTRACTOR NO LATER THAN THIRTY (30) DAYS AFTER RECEIPT OF EACH INVOICE FROM OWNER;

B. SEEK AND OBTAIN AN ORDER GRANTING SPECIFIC PERFORMANCE FROM A COURT OF COMPETENT JURISDICTION, REQUIRING THAT CONTRACTOR IMMEDIATELY DISCHARGE AND REMOVE, BY BOND, PAYMENT OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE. THE PARTIES EXPRESSLY AGREE THAT OWNER SHALL BE ENTITLED TO SUCH SPECIFIC PERFORMANCE AND THAT CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH SPECIFIC PERFORMANCE ACTION. CONTRACTOR AGREES THAT THE FAILURE TO DISCHARGE AND REMOVE ANY SUCH LIEN OR ENCUMBRANCE WILL GIVE RISE TO IRREPARABLE INJURY TO OWNER AND OWNER'S AFFILIATES, AND FURTHER, THAT OWNER AND SUCH OWNER AFFILIATES WILL NOT BE ADEQUATELY COMPENSATED BY DAMAGES; OR

C. CONDUCT THE DEFENSE OF ANY ACTION IN RESPECT OF (AND ANY COUNTERCLAIMS RELATED TO) SUCH LIENS OR ENCUMBRANCES AS SET FORTH IN SECTION 17.7, WITHOUT REGARD TO CONTRACTOR'S RIGHTS UNDER SUCH SECTION.

17.7 **Legal Defense**. 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 AGREEMENT, 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 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 SECTION 17.7, 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 ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION 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 INTEREST ON SAME FROM THE DATE ANY SUCH COST AND EXPENSE WAS PAID BY SUCH INDEMNIFIED PARTY UNTIL REIMBURSED BY THE INDEMNIFYING PARTY AT THE INTEREST RATE SET FORTH IN THIS AGREEMENT.

17.8 **Enforceability**.

A. EXCEPT AS OTHERWISE SET FORTH ABOVE, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR BODILY INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT 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 17 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

B. OWNER AND CONTRACTOR AGREE THAT THE TEXAS OILFIELD ANTI-INDEMNIFICATION ACT, TEX. CIV. PRAC. & REM. CODE ANN. §§ 127.001-005, TEX. CIV. PRAC. & REM. CODE ANN. §§ 130.001-005 AND TEX. INS. CODE ANN. CHAPTER 151 ARE 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, EACH PARTY HEREBY AGREES TO 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 CONTRACTOR AGREES THAT THE CONTRACT PRICE COMPENSATES CONTRACTOR FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THE AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

C. 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. EACH PARTY ACKNOWLEDGES SPECIFIC PAYMENT OF TEN AND NO/100 U.S. DOLLARS (U.S. $10.00) AS LEGAL CONSIDERATION FOR THE INDEMNITY OBLIGATIONS AS MAY BE PROVIDED IN THIS AGREEMENT.

ARTICLE 18
DISPUTE RESOLUTION

18.1 **Negotiation**. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement) ("***Dispute***") cannot be resolved informally within fifteen (15) Days after the Dispute arises, or such longer period of time as mutually agreed to in writing by the Parties, either Party may give written notice to the other Party requesting that a representative of Owner's senior management and Contractor's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such notice, or such longer period of time as mutually agreed to in writing by the Parties, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 18.1 be construed to limit either Party's right to take any action under this Agreement, including Owner's rights under Section 16.1.

18.2 **Mediation**. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) Days of receipt of the notice set forth in Section 18.1, then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other Party requesting such mediation, which shall be held in Houston, Texas, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) Days after the date written notice of

mediation is received, either Party may petition the American Arbitration Association ("***AAA***") for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the AAA's Construction Industry Arbitration Rules and Mediation Procedures then in effect. The mediation shall be concluded within forty-five (45) Days after receipt of the mediation request, unless the Parties agree otherwise. The Parties and the mediator shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (i) views expressed or suggestions made by either Party with respect to a possible settlement of the Dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement made by the mediator. With respect to expenses related to mediation, the expenses of witnesses for either Party shall be paid by the Party producing such witnesses; all other expenses of mediation, including required traveling, fees and other expenses of the mediator, shall be borne equally by the Parties unless otherwise agreed by the Parties. Mediation is an absolute condition precedent to litigation, except (i) to the extent necessary to avoid statute of limitation issues or to preserve bond rights, (ii) if another Dispute is already subject to litigation pursuant to this Article or (iii) if a dispute under the Train 1 EPC Agreement or Train 2 EPC Agreement is already subject to litigation pursuant to its terms and the Dispute hereunder is related to such dispute.

18.3 **Litigation**. In the event that the Dispute is not resolved by mediation within forty-five (45) Days (or such other time agreed upon in writing by the Parties pursuant to Section 18.2) after receipt of the mediation request given in accordance with 18.2, then the Parties agree that such Dispute shall be decided by litigation pursuant to this Section 18.3. Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail in accordance with the notice provisions of this Agreement, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdiction. Nothing herein shall affect the right of any Party to serve legal process in any manner permitted by Applicable Law or affect its right to bring any action that does not arise out of or relate to this Agreement in any other court of competent jurisdiction. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE BETWEEN THE PARTIES OR WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

18.4 **Continuation of Work During Dispute**. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 or 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall

the occurrence of any negotiation or litigation prevent or affect Owner from exercising its rights under this Agreement, including Owner's right to terminate pursuant to Article 16.

ARTICLE 19
CONFIDENTIALITY

19.1 **Contractor's Obligations**. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information, whether disclosed prior to or after the Effective Date: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary for such Subcontractor or Sub-subcontractor to perform any Work or (ii) any other information which is conspicuously marked and identified in writing as confidential and relates to the business, products, services, research or development, actual or potential clients or customers, financing of the Train 3 Project, designs, methods, discoveries, trade secrets, research, development or finances of Owner or any Owner Affiliate, or relating to similar information of a third party who has entrusted such information to Owner or any Owner Affiliate (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to disclosing any Owner's Confidential Information in (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Proprietary Work Product.

19.2 **Owner's Obligations**. Owner hereby covenants and warrants that Owner 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 any of the following information: (i) any estimating, technical or pricing information, methodologies, techniques or know-how of Contractor or its Subcontractors relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor, (ii) any of Contractor's Intellectual Property or Third Party Proprietary Work Product, which is conspicuously marked and identified in writing as confidential by Contractor or (iii) any financial information provided to Owner pursuant to Section 9.4, whether or not marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). The Parties agree that Owner may disclose Contractor's Confidential Information to its Affiliates, partners, underwriters, customers, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and its representatives, Owner's (or Owner's Affiliates') consultants, rating agencies or any other party in relation to project financing for the Train 3 Project, *provided that* Owner binds such Persons to confidentiality obligations similar to those contained in this Section 19.2. Notwithstanding the foregoing (but subject to Section 10.1), in no event shall Owner be restricted in any way from the use or disclosure of the Work Product, and Owner shall be entitled to disclose to Persons that portion of Contractor's Intellectual Property and Third Party Proprietary Work Product for which Owner

has a license to the extent such disclosure is consistent with the purposes for which such license is granted pursuant to Section 10.1.

19.3 **Definitions**. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 **Exceptions**. Notwithstanding Sections 19.1 and 19.2, 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 Article 19; (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, other than directly or indirectly disclosed or acquired through the FEED Agreement, or any other agreements between the Parties related to the Train 3 Project; (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, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies, including FERC, in connection with the Facility to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed and, to the extent reasonably capable under Applicable Law and the circumstances surrounding the disclosure, shall provide Disclosing Party with an opportunity to take appropriate steps the Disclosing Party believes are necessary to protect the confidentiality and/or proprietary nature of its Confidential Information.

19.5 **Equitable Relief**. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, 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, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 **Term**. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of ten (10) years following the expiration or earlier termination of this Agreement.

ARTICLE 20
LIMITATION OF LIABILITY

20.1 **Contractor Aggregate Liability**. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of Four Hundred and Thirty Million U.S. Dollars (U.S.$430,000,000) in the aggregate; *provided that*, notwithstanding the

foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply in the event of Abandonment of the Train 3 Project by Contractor; (ii) apply to Contractor's indemnification obligations under this Agreement with respect to any claims brought by a third party; (iii) apply to Contractor's obligation to deliver to Owner full legal title to and ownership of all or any portion of the Work and the Train 3 Expansion as required under this Agreement; (iv) include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Contractor or any of its Subcontractors or Sub-subcontractors under this Agreement; or (v) apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion for the Train 3 Expansion, and the costs incurred by Contractor in performing the Work shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Contractor, Owner, Lender or their respective Affiliates or member companies.

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 or joint negligence or fault of any Contractor Indemnified Party or Contractor's Subcontractors or Sub-subcontractors. 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, 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*, that Contractor's liabilities assumed under this Section 20.2 shall remain subject at all times to 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.

20.3 **Limitation on Contractor's Liability for Delay Liquidated Damages**.

A. ***Delay Liquidated Damages***. Subject to Section 20.3B, Contractor's maximum liability to Owner for Delay Liquidated Damages is One Hundred Ninety Million U.S. Dollars (U.S.$190,000,000) in the aggregate. For purposes of clarity, the Substantial Completion Delay Liquidated Damages, the RLFC Delay Liquidated Damages, the MCHE Replacement Delay Liquidated Damages and the Record As-Built Delivery Requirement Delay Liquidated Damages assessed against Contractor pursuant to Sections 13.2A, 11.1D, 11.4B, and 13.2B, respectively, shall apply towards the foregoing limitation of Contractor's Delay Liquidated Damages.

B. ***Exceptions to Limitations of Liability Under Section 20.3***. Section 20.3A shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve Substantial Completion and Final Completion and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.3apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel.

20.4 **Delay Liquidated Damages In General**.

A. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of the per Day rate of the Delay Liquidated Damages on the basis that such per Day rate constitutes a penalty or is otherwise unenforceable or invalid. If Contractor, Guarantor or anyone on their behalf successfully challenges the per Day rate of any Delay Liquidated Damages, Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement. For the avoidance of doubt, this Section 20.4A shall not preclude

Contractor from contesting whether it is responsible for delays giving rise to Owner's claims for Delay Liquidated Damages.

B. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement. Notwithstanding the foregoing: (1) Substantial Completion Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for delay in achieving Substantial Completion of the Train 3 Expansion, (2) the Record As-Built Delivery Requirement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving the Record As-Built Delivery Requirement, (3) the RLFC Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in readiness to load the LNG Tanker as set forth in Section 11.1D and (4) the MCHE Replacement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving Substantial Completion due to an MCHE Replacement Scenario.

20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES; *PROVIDED THAT* THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 20.5 SHALL NOT APPLY: (I) TO THE DELAY LIQUIDATED DAMAGES SET OUT IN SECTION 13.2; (II) TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS BROUGHT BY ANY THIRD PARTY; OR (III) WHERE CONSEQUENTIAL DAMAGES ARE EXPRESSLY PERMITTED UNDER SECTION 20.4A. FOR THE PURPOSES OF THIS SECTION 20.5, THE TERM "THIRD PARTY" SHALL MEAN ANY PERSON OTHER THAN CONTRACTOR, OWNER OR ANY OF THEIR RESPECTIVE AFFILIATES. AS USED IN THIS SECTION 20.5, OWNER SHALL MEAN THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR SHALL MEAN THE CONTRACTOR INDEMNIFIED PARTIES AND CONTRACTOR'S SUBCONTRACTORS AND SUB-SUBCONTRACTORS.

20.6 **Owner Separate Contracts**. In any separate contract which Owner enters into after the Effective Date with technical consultants and contractors (other than Contractor) for the construction of the Train 3 Expansion, Owner shall use reasonable efforts to provide that indemnities running to the benefit of Owner in such contracts shall also run to the benefit of Contractor.

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.

20.8 **Application of Liability Limitations**.

A. Except to the extent prohibited by the governing law specified in Section 21.9, or as stated in the terms of this Agreement, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability and indemnities expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract or otherwise of the Person released or whose liability is waived, disclaimed, limited, fixed or indemnified.

B. Except as specifically stated in Section 8.2A.1 (with respect to the policy deductibles for builder's risks or marine cargo insurance), no liabilities incurred by T1/T2 EPC Contractor arising from the Train 1 EPC Agreement or Train 2 EPC Agreement (including any delay liquidated damages assessed thereunder) shall accrue against any limitations of liability under this Agreement (including the limitations of liability set forth in Sections 20.1 and 20.3). Conversely, no liabilities incurred by Contractor arising under this Agreement (except the aforementioned portion of Section 8.2A.1), including any Delay Liquidated Damages assessed hereunder, shall accrue against any limitations of liability under the Train 1 EPC Agreement or Train 2 EPC Agreement.

ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 **Entire Agreement**. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, and the Equipment Sharing Agreement (once executed) contain the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement or the Equipment Sharing Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no applicability to Owner with respect to this Agreement. Notwithstanding anything to the contrary herein, with respect to the FEED Agreement, this Agreement and the Equipment Sharing Agreement supersede such FEED Agreement only to the extent of the work performed under the FEED Agreement that relates to the Scope of Work under this Agreement. All Work performed under the FEED Agreement and any other agreements between the Parties relating to the Scope of Work under this Agreement shall be governed by the terms and conditions set forth in this Agreement and the Equipment Sharing Agreement.

21.2 **Amendments**. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1C or Section 6.2D, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 **Joint Effort**. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

21.4 **Captions**. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.5 **Notice**. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be either (i) hand delivered; (ii) delivered by same-day or overnight courier; (iii) delivered by facsimile with written confirmation of complete transmittal; or (iv) delivered by certified mail, return receipt requested, to the other Party at the address set forth below.

A. If delivered to Owner:

FLNG Liquefaction 3, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: Mark Mallett

with a copy to:

FLNG Liquefaction 3, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: General Counsel

B. If delivered to Contractor:

CB&I/Zachry/Chiyoda Joint Venture
c/o CB&I Inc.
6001 Rogerdale
Houston, Texas 77072
Facsimile: 713-485-1005
Attn: Chet Lloyd

with a copy to:

CB&I Inc.
2103 Research Forest Blvd.
The Woodlands, Texas 77380
Facsimile: 832-513-1591
Attn: General Counsel

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed to be received: (1) if delivered by hand, by same-day or overnight courier service, or certified mail on the date actually received at the address of the intended recipient; or (2) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.

21.6 **Severability**. The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

21.7 **Assignment**. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except Owner may assign this Agreement, in whole or part, to any of its Affiliates or any of its co-venturers or to any Person who acquires an ownership interest in Owner or the Train 3 Expansion. Furthermore, Owner may assign, pledge and/or grant a security interest in this Agreement that Owner has or which shall hereafter arise in and to Owner and all claims resulting from any failure of performance with any provision of this Agreement to any Lender without Contractor's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.7 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.7 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for Default.

21.8 **No Waiver**. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.9 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, 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 Agreement and shall be disclaimed in and excluded from any Subcontracts entered into by Contractor in connection with the Work or the Train 3 Expansion.

21.10 **Successors and Assigns**. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

21.11 **Attachments and Schedules**. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

21.12 **Obligations**. Nothing contained in this Agreement shall be construed as constituting a joint venture or partnership between Contractor and Owner.

21.13 **Further Assurances**. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. In addition, Contractor agrees to cooperate with any Lender (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement, (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not adversely affect the rights, obligations and liability limitations of Contractor hereunder and Contractor's entitlement to payment in accordance with this Agreement, and (iv) to take such action or execute such documentation as any Lender shall reasonably require.

21.14 **Priority**. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority:

A. Change Orders or written amendments to this Agreement;

B. this Agreement; and

C. Attachments and Schedules to this Agreement.

21.15 **Restrictions on Public Announcements**. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs of any part of the Facility (except as may be included in a Monthly Progress Report) or (ii) publicly refer to the Work, the Train 3 Project or any part of the Facility in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work, the Train 3 Project or any part of the Facility without the prior written consent of Owner (which shall not be unreasonably withheld). Under no circumstance shall Contractor permit

access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner.

21.16 **Parent Guarantee**. CB&I Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Zachry Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Chiyoda Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. The guarantees contained in this Section 21.16 is unconditional and irrevocable. Each of the guarantees provided by CB&I Guarantor, Zachry Guarantor and Chiyoda Guarantor are individually referred to as a "***Parent Guarantee***" and collectively as "***Parent Guarantees***."

21.17 **Foreign Corrupt Practices Act**. With respect to the performance of the Work, each Party shall, and shall cause each of its contractors (or, in the case of Contractor, its Subcontractors and Sub-subcontractors), and the agents and employees of each of them to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2), as amended (or, if such act is not applicable to a Person, to act in such manner that would comply with the provisions of such act were it applicable to such Person). Neither Party shall take any action that could result in the other Party or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such Act and shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties, in order to obtain or maintain business.

21.18 **Language**. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language, unless otherwise directed by Owner in writing.

21.19 **Counterparts**. This Agreement may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by each of the Parties. Facsimile signatures shall be deemed as effective as original signatures.

21.20 **Owner's Lender(s)**. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain financing for or in connection with the Train 3 Project and Contractor agrees to cooperate with Owner and any Lender in connection with such financing (and any refinancing), including delivering, as a condition to any such financing or refinancing, such documentation and information as is customary for a financing or refinancing of such type and entering into direct agreements with such Lender, as required by such Lender, covering matters that are customary in a financing or refinancing of such type, including: Lender assignment or security rights with respect to this Agreement; opinions; direct notices to Lender, with applicable cure periods, prior to any termination, suspension or other similar action; step-in/step-out rights; an obligation on the Parties not to amend the Agreement without Lender's consent; access by such Lender's representative and other matters applicable to such financing or refinancing. Contractor acknowledges and agrees that Owner's issuance of NTP is contingent upon obtaining such

non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner may terminate this Agreement for convenience in accordance with Section 16.2.

21.21 **Joint and Several Liability**. Contractor is a joint venture comprised of: (i) CB&I Inc., a Texas corporation ("***CB&I***"), (ii) Zachry Industrial, Inc., a Delaware corporation ("***Zachry***") and (iii) Chiyoda International Corporation, a Washington corporation ("***Chiyoda***"). CB&I, Zachry and Chiyoda agree on behalf of themselves and their respective insurers and guarantors to be jointly and severally responsible and liable to Owner for all of Contractor's duties and obligations under this Agreement and for all claims, damages, costs, expenses and all other liability arising out of or relating to the performance or failure to perform any of Contractor's duties or obligations under this Agreement or otherwise arising out of the Train 3 Project.

21.22 **Coordination Between this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement**.

A. ***Administrative Coordination***. Owner and Contractor acknowledge that Owner, FLIQ1 and FLIQ2 are concurrently (but separately) developing and financing the Train 1 Expansion, Train 2 Expansion and the Train 3 Expansion, respectively, and that T1/T2 EPC Contractor is providing the turnkey engineering, procurement and construction services for the Train 1 Expansion and the Train 2 Expansion in accordance with the Train 1 EPC Agreement and the Train 2 EPC Agreement, respectively. Notwithstanding the separate agreements and different joint venture entities under which the Train 3 Expansion, the Train 1 Expansion and Train 2 Expansion will be developed, the Parties intend to use commercially reasonable efforts to minimize administrative duplication and expense where reasonably practicable.

B. ***Coordination of Contractor's Work and Effects of Contractor's Acts or Omissions between this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement***. Contractor acknowledges that T1/T2 EPC Contractor, in accordance with the Train 1 EPC Agreement and the Train 2 EPC Agreement, will design, engineer, procure, construct, pre-commission, commission, start-up and test the Train 1 Expansion and the Train 2 Expansion, respectively, while concurrently performing the Work under this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor further acknowledges that any work performed by (or on behalf of) T1/T2 EPC Contractor under the Train 1 EPC Agreement or the Train 2 EPC Agreement (as such agreement may be modified from time to time in accordance with the terms thereof), as well as any acts or omissions of T1/T2/ EPC Contractor, or any of its subcontractors or sub-subcontractors in connection with the Train 1 EPC Agreement, the Train 2 EPC Agreement, the Train 1 Expansion or the Train 2 Expansion, shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 3 Project Schedule or any other Changed Criteria under this Agreement unless such circumstance also entitles Contractor to a Change Order under Section 6.2A herein.

C. ***Coordination of FLIQ1 Directives under the Train 1 EPC Agreement and FLIQ2 Directives under the Train 2 EPC Agreement***. The Parties agree and

acknowledge that no act, instruction or direction by FLIQ1 or FLIQ2, or anyone acting for or on behalf of FLIQ1 or FLIQ2 under the Train 1 EPC Agreement and Train 2 EPC Agreement, respectively, shall entitle Contractor to any modification of the Contract Price, Train 3 Project Schedule or any other Changed Criteria, unless such instruction or direction originates from a unilateral change order (as such term is defined under the Train 1 EPC Agreement or Train 2 EPC Agreement, respectively), such unilateral change order impacts any Changed Criteria and Contractor complies and meets the requirements herein. Contractor shall provide a written notice to Owner no later than ten (10) Days following issuance of such unilateral change order. Such written notice shall meet the requirements of Section 6.5, including a reasonably detailed description of the impact of such unilateral change order on any Changed Criteria. If Contractor provides such written notice in accordance with this Section 21.22C and FLIQ1 or FLIQ2 subsequently fails to withdraw such unilateral change order (or alternatively, fails to modify such unilateral change order to remove those requirements identified by Contractor which impacts any Changed Criteria), Contractor shall be entitled to request a Change Order to the extent allowed under Section 6.8 and to the extent that such unilateral change order does actually impact the Changed Criteria. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 21.22C, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 3 Project Schedule, or any other Changed Criteria.

D. ***Coordination of Relief to Contractor as a Result of Force Majeure Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that an event of "Force Majeure" (as defined in the Train 1 EPC Agreement or Train 2 EPC Agreement) which only directly impacts the Train 1-Specific Work or Train 2-Specific Work (as defined in the Train 1 EPC Agreement or Train 2 EPC Agreement, as applicable) may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 3 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 3 Project Schedule to the extent allowed under, and in accordance with, Section 6.7 (including, as required by such Section 6.7, Contractor's compliance with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10).

E. ***Coordination of Relief to Contractor as a Result of Certain Owner-Assumed Risks Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that a circumstance providing Contractor with relief under Section 6.9 of the Train 1 EPC Agreement or Section 6.9 under the Train 2 EPC Agreement, which only directly impacts the Train 1-Specific Work or Train 2-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 3 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 3 Project Schedule to the extent allowed under, and in accordance with, Section 6.8 of this Agreement (including, as required by such Section 6.8,

Contractor's compliance with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10).

F. ***Limitation of Rights and Relief between this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement***. For purposes of clarity, any event or circumstance entitling T1/T2 EPC Contractor to a change order under the Train 1 EPC Agreement or the Train 2 EPC Agreement shall not, in and of itself, entitle Contractor to a Change Order under this Agreement unless such event or circumstance, separately, entitles Contractor to a Change Order under Section 6.2A.

21.23 **Survival**. Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 16, Article 17, Article 18 and Article 19, Article 20, Sections 3.6, 3.8, 3.13, 3.14, 3.17, 4.5, 4.6, 8.1, 8.2, 11.10, 21.1, 21.9, 21.16, 21.21 and this Section 21.23 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Owner:

FLNG LIQUEFACTION 3, LLC

By: FLIQ3 Holdings, LLC, its sole member

By: Freeport LNG Expansion, L.P., its sole member

By: Freeport LNG Expansion GP, LLC, its general partner

By:_____
Name:
Title:

Contractor:

ZACHRY INDUSTRIAL, INC.

By:_____
Name:
Title:

CB&I INC.

By: _____
Name:
Title:

CHIYODA INTERNATIONAL CORPORATION

By: _____
Name:
Title:

Separately acknowledged by Zachry Industrial, Inc., CB&I, Inc. and Freeport LNG Expansion, L.P., but only for purposes of superseding the FEED Agreement pursuant to Section 21.1.

ZACHRY INDUSTRIAL, INC.

By:_____
Name:
Title:

CB&I INC.

By: _____
Name:
Title:

FREEPORT LNG EXPANSION, L.P.

By Freeport LNG Expansion GP, LLC, its general partner

By:_____
Name:
Title:

EXHIBIT 9

Proof of Claim No. 1501

Your claim can be filed electronically on Verita's website at https://www.veritaglobal.net/zhi

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

United States Bankruptcy Court for the Southern District of Texas, Houston Division

Indicate Debtor against which you assert a claim by checking the appropriate box below. (**Check only one Debtor per claim form.**)

☒ Zachry Holdings, Inc. (Case No. 24-90377)	☐ Zachry Constructors, LLC (Case No. 24-90384)	☐ Zachry Maintenance Services, LLC (Case No. 24-90395)
☐ Computer Simulation & Analysis, Inc. (Case No. 24-90391)	☐ Zachry Engineering Corporation (Case No. 24-90379)	☐ Zachry Nuclear Construction, Inc. (Case No. 24-90388)
☐ J.V. Industrial Companies, LLC (Case No. 24-90396)	☐ Zachry Enterprise Solutions, LLC (Case No. 24-90386)	☐ Zachry Nuclear Engineering, Inc. (Case No. 24-90390)
☐ JVIC Fabrication, LLC. (Case No. 24-90393)	☐ Zachry EPC Holdings, LLC (Case No. 24-90378)	☐ Zachry Nuclear, Inc. (Case No. 24-90389)
☐ Madison Industrial Services Team, LLC (Case No. 24-90397)	☐ Zachry High Voltage Solutions, LLC (Case No. 24-90381)	☐ Zachry Plant Services Holdings, Inc. (Case No. 24-90392)
☐ Moss Point Properties, LLC (Case No. 24-90387)	☐ Zachry Industrial Americas, Inc. (Case No. 24-90394)	☐ ZEC Michigan, Inc. (Case No. 24-90383)
☐ UE Properties, Inc. (Case No. 24-90382)	☐ Zachry Industrial, Inc. (Case No. 24-90385)	☐ ZEC New York, Inc. (Case No. 24-90380)

Modified Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed, May 21, 2024.

Part 1: Identify the Claim

1. **Who is the current creditor?**

FLNG Liquefaction, LLC
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☒ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

(see addendum for full notice list)

Where should notices to the creditor be sent?

FLNG Liquefaction, LLC
Name
333 Clay Street, Suite 5050
Number Street
Houston, TX 77002-4173
City State ZIP Code
United States of America
Country
Contact phone 713-980-2888
Contact email sottis@freeportlng.com

Where should payments to the creditor be sent? (if different)

Name
Number Street
City State ZIP Code
Country
Contact phone
Contact email

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☒ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: **Give Information About the Claim as of the Date the Case Was Filed**

6. **Do you have any number you use to identify the debtor?**

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ Undetermined. **Does this amount include interest or other charges?**

☐ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

If applicable, the claim must include information regarding payment received from any third party on account of, in connection with, or otherwise relating to the claim. Please list such information in the supporting documentation to the claim.

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Guarantee of contractual obligations - see attached addendum

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

9. **Is all or part of the claim secured?**

☒ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☒ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☒ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/13/2024
MM / DD / YYYY

Shaw Ottis
Digitally signed by Shaw Ottis
Date: 2024.09.13 14:41:57 -05'00'
Signature

Print the name of the person who is completing and signing this claim:

Name: Shaw (First name) Christopher (Middle name) Ottis (Last name)

Title: SVP, General Counsel & Secretary

Company: FLNG Liquefaction, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 333 Clay St., Suite 5050
Number Street

Houston (City) TX (State) 77002 (ZIP Code) USA (Country)

Contact phone: 713-980-2894 Email: sottis@freeportlng.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*,[1]	Case No. 24-90377 (MI)
Debtors.	(Jointly Administered)

ADDENDUM TO PROOF OF CLAIM OF FLNG LIQUEFACTION, LLC

FLNG Liquefaction, LLC ("FLNG") hereby submits this addendum to its Proof of Claim (the "Claim") against Zachry Holdings, Inc. ("Zachry Holdings") and respectfully states as follows:

Background

1. On April 23, 2024, FLNG and affiliated entities filed suit in the 133rd Judicial District Court of Harris County, Texas (the "State Court"), asserting a state law breach of contract claim against Zachry Industrial Inc. ("Zachry Industrial"), CB&I, Inc., and Chiyoda International Corporation after discovering significant defects in the performance of their work on a natural gas liquefaction and liquified natural gas export facility, resulting in substantial costs, the shut-down of operations, and other damages (the "Facilities Defects Case"). **Exhibit B**.

2. On May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, jointly administered under Case No. 24-90377.

[1] The debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/zhi. The Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

3. On July 31, 2024, Zachry Industrial removed the Facilities Defects Case from State Court to the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. 1452(a).

4. On August 28, 2024, the Facilities Defects Case was referred to this Court. The Facilities Defects Case is yet to be adjudicated.

5. FLNG's Claim against Zachry Holdings is predicated on guarantee obligations by Zachry Holdings under the *Fixed Price Separated Turnkey Agreement for the Engineering, Procurement, and Construction of the Freeport Train 1 Liquefaction Project by and between FLNG Liquefaction, LLC as Owner and Zachry Industrial, Inc. and CB&I Inc. as Contractor* (the "EPC") dated December 10, 2013. *See* **Exhibit C**. Pursuant to Article 21.16 and the Parent Guarantee[2] to the EPC, Zachry Holdings unconditionally and irrevocably guarantees the full and faithful performance of all obligations of Zachry Industrial under the EPC.

6. Because of the voluminous nature of the documents supporting this Claim, the fact that such documents contain confidential or commercially sensitive information, and based on consent from the Debtors, not all such documents are annexed hereto. FLNG has made or will make such documents available to the Debtors. Such documents will also be made available to the Official Committee of Unsecured Creditors upon written request and subject to appropriate confidentiality restrictions.

Reservation of Rights

7. FLNG does not waive, and expressly reserves, (i) all rights and remedies at law or in equity that FLNG has or may have against Zachry Holdings, any of the Debtors, any of their respective affiliates and subsidiaries, or any other person or entity who may be liable for all or part

[2] *See* **Exhibit D**.

of the claims set forth herein; (ii) any obligation owed to FLNG or any right to any security or to assert any security interest that may be determined to be held by FLNG; (iii) FLNG's right to have final orders in non-core matters, or core matters to which *Stern v. Marshall* applies, entered only after *de novo* review by a United States District Court Judge; and (iv) any right to (a) withdraw the reference, or otherwise challenge the jurisdiction of the Court, with respect to the subject matter of the Claim, any objection or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG, (b) assert that the reference has already been withdrawn with respect to the subject matter of the Claim, any objection or other proceeding commenced with respect thereto or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG, or (c) seek adjudication of its Claim in any court of competent jurisdiction on any basis, including mandatory abstention, permissive abstention, or equitable remand.

8. The filing of this Claim is not, nor shall it be deemed or construed to be: (i) a waiver or release of any term or provision of any agreement between FLNG and Zachry Holdings or any agreement governing the relationship between FLNG and Zachry Holdings; (ii) an election of remedies or waiver of any past, present or future breaches of any agreement between FLNG and Zachry Holdings or any agreement governing the relationship between FLNG and Zachry Holdings; (iii) a waiver or limitation of any procedural or substantive rights of FLNG or any procedural or substantive defenses to any claim that may be asserted against FLNG; (iv) a waiver or release of, or any other limitation on, FLNG's right to assert that any portion of the claims asserted herein or any other claims are entitled to priority, including, without limitation, under sections 503(b) and 507(a)(2) of the Bankruptcy Code; (v) a waiver of any right to claim specific assets; or (vi) a waiver or release of any lien or security interest. In addition, FLNG reserves the right to withdraw this Claim in its entirety or with respect to any portion thereof for any reason

whatsoever.

9. FLNG expressly reserves the right to (i) amend, modify, update, or supplement the Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify, or correct amounts, to provide additional detail regarding the claims set forth herein, to fix the amount of any disputed, contingent or unliquidated claim, or to assert any alternative theories or bases for recovery; (ii) file additional proofs of claim, administrative expense claims or requests for payment of any administrative expenses, or pleadings for additional claims that may be based on the same or additional documents; and (iii) assert any and all other claims, actions, defenses, setoffs, recoupments, rights, right of action, causes of action, claims or remedies of whatever kind or nature that it currently has, or may have in the future against the Debtors and/or any of their respective affiliates and subsidiaries, or any other person or entity (including, without limitation, guarantors, partners, officers, directors, and other creditors of the Debtors), at law or in equity, including, without limitation, administrative or other priority claims, lien rights, interests, and the right to assert claims that are otherwise warranted in any related actions. This Claim is filed without prejudice to the filing by FLNG of additional proofs of claim or administrative expense claims with respect to any other liability or indebtedness of and/or equity interest in the Debtors.

10. FLNG does not waive or release any of its rights to amounts due for any claim asserted herein by not ascribing a specific dollar amount thereto at this time, and FLNG expressly reserves the right to amend or supplement this Claim if it deems it necessary or appropriate, to assert and state an amount for any such claim.

11. The Claim is not subject to objection, defense, setoff, recoupment, or counterclaim of any kind by the Debtors. FLNG expressly reserves and does not waive any objections, defenses,

rights of set-off or recoupment, or counterclaims, that it may possess. No judgment has been rendered on the Claim.

12. By filing this Claim, FLNG does not consent to or submit itself to the jurisdiction of the Court for any purpose except in respect of the allowance of this Claim for any and all amounts due in connection herewith.

Notices

13. All notices, communications, and distributions in respect of this Claim should be delivered to:

FLNG Liquefaction, LLC
333 Clay St., Suite 5050
Houston, TX 77002
Attention: Shaw Christopher Ottis
Phone: 713-980-2894
Email: sottis@freeportlng.com

And

Christopher Taylor
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2058
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EXHIBIT B

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

Cause No. _____

FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	**_____ JUDICIAL DISTRICT**
v.	§	
CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION	§	**HARRIS COUNTY, TEXAS**
Defendants.	§	

PLAINTIFFS' ORIGINAL PETITION

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, 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.

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III. DISCOVERY LEVEL

3. This case is intended to be conducted under Discovery Level 3 in accordance with Texas Rule of Civil Procedure 190.4.

IV. PARTIES

4. Plaintiff FLNG Liquefaction, LLC ("FLIQ1") is a Delaware limited liability company with its principal place of business in Houston, Texas.

5. Plaintiff FLNG Liquefaction 2, LLC ("FLIQ2") is a Delaware limited liability company with its principal place of business in Houston, Texas.

6. Plaintiff FLNG Liquefaction 3, LLC ("FLIQ3") is a Delaware limited liability company with its principal place of business in Houston, Texas.

7. Defendant CB&I Inc. ("CB&I") is a Texas corporation with its principal place of business in Houston, Texas. CB&I may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Zachry Industrial, Inc. ("Zachry") is a Delaware corporation with its principal place of business in San Antonio, Texas. Zachry may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Chiyoda International Corporation ("Chiyoda") is a Washington corporation with its principal place of business in Houston, Texas. Chiyoda may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

V. JURISDICTION & VENUE

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.020 because the written agreements at issue involve "major transactions" as defined

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under the statute, and the parties agreed to venue in Harris County. Specifically, the agreements at issue provide that each party "irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas."

11. This Court has subject matter jurisdiction over this dispute because the amount in controversy is within the jurisdictional limits of this Court.

12. This Court has personal jurisdiction over Defendants because they are citizens of Texas by virtue of having their principal places of business in Texas. Further, Defendants conduct business in Texas, including but not limited to, by entering into contractual relationships and performing work in Texas and maintaining offices and employees in Texas. Defendants have purposefully availed themselves of the benefits and protections of the State of Texas by establishing minimum contacts here, and this Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

VI. FACTUAL BACKGROUND

A. Freeport LNG's Quintana Island Facility

13. Freeport LNG Development, L.P. ("Freeport LNG") is one of the first and largest exporters of LNG. With its joint venture partners, Freeport LNG owns and operates an LNG facility located on Quintana Island near Freeport, Texas (the "LNG Facility").

14. The LNG Facility was previously an LNG import and regasification facility (the "Regas Facility") featuring two 160,000 cubic meter LNG storage tanks, a marine dock that could accommodate the largest LNG tankers in service, and an LNG vaporization system capable of producing over 2 billion cubic feet (Bcf) of gas per day. Construction on the Regas Facility started in 2005, and commercial operations began in 2008. However, by the time the import terminal commenced operations in 2008, the North American natural gas industry had begun to experience

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a sea change—the shale gas revolution.

15. In 2010, to take advantage of excess domestic natural gas reserves due primarily to improvements in extracting gas from shale, Freeport LNG began a project to transform the Regas Facility from an import terminal into a natural gas liquefaction and LNG export facility (as defined above, the "LNG Facility").

16. LNG is natural gas that is super-cooled to transform it from a gaseous state into a liquid for ease and safety of non-pressurized storage and transport. Natural gas is converted to a liquid in a liquefaction plant that performs a sequence of processes, which is often referred to as "liquefying" the natural gas. This liquefaction process takes place in processing units that are often referred to as "trains."

17. The LNG Facility, which currently has three liquefaction processing units, or trains, is the first world-scale electric-powered LNG plant in North America. Train 1 was commissioned and began commercial operations in December 2019. Train 2 and Train 3 commenced operations in January and May 2020, respectively. When operating at full capacity, the output from the Facility's three liquefaction trains is enough to decrease the United States trade deficit by 1-2% alone.

18. Each liquefaction train at the LNG Facility uses three General Electric 75 MW motors that power three propane and mixed-refrigerant compressors. The electric motors used at the LNG Facility were selected to allow Freeport LNG to comply with strict local air emissions standards and meet its production and export targets.

B. The EPC Contracts

19. FLIQ1, FLIQ2, and FLIQ3 are affiliates of Freeport LNG.

20. FLIQ1 developed the first LNG train ("Train 1"). FLIQ2 developed the second

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LNG train ("Train 2"), and FLIQ3 developed the third LNG train ("Train 3").

21. FLIQ1 and FLIQ2 selected CB&I and Zachry, through a joint venture arrangement, to provide all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 1 and Train 2 on a fixed price, turnkey basis.

22. On December 10, 2013, FLIQ1 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 1 EPC Contract").

23. Also on December 10, 2013, FLIQ2 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project ("Train 2 EPC Contract").

24. FLIQ3 selected CB&I, Zachry and Chiyoda, through a joint venture arrangement, to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 3 on a fixed price, turnkey basis.

25. On March 24, 2015, FLIQ3 entered into a Fixed Price Separated Turnkey Agreement with CB&I, Zachry, and Chiyoda for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 3 EPC Contract").

26. The pertinent provisions of the Train 1 EPC Contract, Train 2 EPC Contract, and Train 3 EPC Contract are virtually identical and are referred to collectively in this Petition as the EPC Contracts. CB&I, Zachry, and Chiyoda, as applicable, are referred to in the EPC Contracts collectively as "Contractor," and will be collectively referred to as "Contractor" in this Petition.

C. Defendants' Obligations Under the EPC Contracts

27. The EPC Contracts establish Contractor's substantive performance standards for the Work. Among other obligations, Defendants agreed to perform all engineering, design,

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manufacturing, and fabrication work for Trains 1, 2, and 3 in accordance with applicable codes and standards and in accordance with good engineering and construction practices.

28. Specifically, Section 2.5C of the EPC Contracts provides that:

> "***Contractor shall perform the Work in accordance*** with Applicable Law and ***Applicable Codes and Standards***, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work." (emphasis added).

29. Section 3.1A of the EPC Contracts provides that:

> "***the Work*** shall be performed on a turnkey basis and ***shall include*** all ***engineering***, ***procurement,*** construction, pre-commissioning, start-up and testing of the Train [1, 2, and 3] Expansion, all ***Equipment***, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, ***workmanship, inspection, manufacture***, ***fabrication***, installation, ***design***, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

30. Section 3.1A of the EPC Contracts further provides that:

> "***Contractor shall perform the Work in accordance with GECP***, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement." (emphasis added).

31. The EPC Contracts define "Good Engineering and Construction Practices" or "GECP" as:

> "***the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards*** employed by the liquefied natural gas engineering and construction industries with respect to: (i) the ***engineering, procurement,*** construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A." (emphasis added).

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32. Section 3.2A of the EPC Contracts provides that Contractor's specific obligations include to "***procure***, supply, transport, handle, properly store, ***assemble***, erect and install all ***Equipment***." (emphasis added).

33. Section 3.2B of the EPC Contracts provides that Contractor's specific obligations include to:

> "provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, ***inspection and quality control services required to ensure that the Work is performed in accordance herewith***." (emphasis added).

34. Section 3.2D of the EPC Contracts requires that the Contractor "perform shop and other inspections of the work of Subcontractors and Sub-subcontractors ***to ensure that such work meets all of the requirements of this Agreement***." (emphasis added).

35. Section 3.2R of the EPC Contracts requires that the Contractor "***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement***, including that specified in Section 3.3." (emphasis added).

36. Section 3.3A of the EPC Contracts provides that:

> "Contractor shall, as part of the Work, ***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement*** and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

37. Section 3.3C(6) of the EPC Contracts provides that:

> "Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and ***in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control***." (emphasis added).

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38. Section 3.3D of the EPC Contracts provides that:

> "***Contractor shall perform***, or cause to be performed, all design and ***engineering work in accordance with Applicable Law and Applicable Codes and Standards***, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law." (emphasis added).

39. Section 8.2B of the EPC Contracts provides that Contractor remains responsible for breaches of its obligations under the EPC Contracts following Substantial Completion:

> "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2, and 3] Expansion and each component thereof … after Substantial Completion of the Train [1, 2, and 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." (emphasis added).

40. Section 12 of the EPC Contracts establishes Contractor's Warranties for its Work. Specifically, under Section 12.1B of the EPC Contracts, Contractor warrants that the Work "including Equipment, and each component thereof" shall be:

> "1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;" "2. ***in accordance with all of the requirements of this Agreement***, ***including in accordance with GECP***, Applicable Law and Applicable Codes and Standards;" and "4. ***free from defects in design, material and workmanship***." (emphasis added).

41. Section 12.1C of the EPC Contracts provides:

> "Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; provided, however, ***Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement***, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as ***Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work***." (emphasis added).

42. Section 12.1C of the EPC Contracts further provides:

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> "All such [Subcontractor and Sub-subcontractor] warranties shall be ***deemed to run to the benefit of Owner*** and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be ***enforceable by Owner upon Substantial Completion***. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit ***direct enforcement by Contractor or Owner*** against any Subcontractor or Sub-subcontractor whose warranty is called for." (emphasis added).

43. Section 12.1C of the EPC Contracts also establishes that:

> "***Contractor is jointly and severally liable*** with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty."

44. Section 12.3 of the EPC Contracts establishes Contractor's obligation to perform Corrective Work during the Defect Correction Period, which is defined as the 18-month period following Substantial Completion. However, Section 12.3D of the EPC Contracts makes clear that Contractor remains responsible to Owner for failures to comply with its Warranties under the EPC Contracts:

> "Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the ***Defect Correction Period*** relates only to the specific obligation of Contractor to perform Corrective Work, and ***has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work***." (emphasis added)

D. Defects in the Trains' Motors

45. While the Project experienced Contractor execution delays and other difficulties, after Trains 1, 2, and 3 began commercial operations, no significant defects in Defendants' work were discovered after the expiration of the 18-month Defect Correction Period until recently.

46. On January 17, 2024, the Train 3 Propane Compressor 75 MW Motor ("75 MW Motor") tripped and remained offline, despite several attempts to restart it. Initial investigations indicated that the likely cause of the trip was an electrical fault within a non-accessible portion of

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the 75 MW Motor. A subsequent root cause analysis ("RCA") determined that the direct cause of the 75 MW Motor failure was an electrical short caused by loose hardware (bolts, nuts and washers) within the 75 MW Motor that dislodged from a protective panel where they were installed and fell into the 75 MW Motor windings.

47. Specifically, the RCA identified the following root causes of the loose hardware:

a. *Deficient bolt/washer/nut retention assembly design*: Design was not in accordance with manufacturer recommendations or Good Engineering and Construction Practices ("GECP"). Specifically, ***locking nuts were not used to ensure that the hardware remained tightened in place*** within the 75 MW Motor during normal operations within vibration integrity limits. Additionally, ***Nord-Lock washers were placed on only one side of the bolt step up***, which we understand ***is not in accordance with manufacturer recommendations*** that require a Nord-Lock washer on both the bolt and nut sides for proper fastening.

b. *Inadequate quality assurance/quality control during assembly*: There was ***defective workmanship during assembly, including the use of improper parts, as well as differing metals for similar parts***. For example, bolt assembly components in the 75 MW Motor were a mixture of stainless steel and carbon steel parts, and a large shim washer was found within the 75 MW Motor and is not an approved material in the bill of materials, nor is the use of shim washers part of the proper design of the bolt assembly. In addition, ***multiple bolts were identified as being inadequately torqued***.

48. Similar defects have been identified in two other Train 3 motors, which will also require repairs.

49. The RCA identified a separate Defect in the 75 MW motor that also requires repair in order to prevent premature failure in the future. Specifically, significant partial discharge was found on the cable bundles going from the stator to the motor termination boxes in the 75 MW motor. The cause of the discharge was determined to be the excessive length of the cables and the increased bend radius of the cabling. Cable sheath and insulation damage due to excess partial discharge was also found in the other Train 3 motors, requiring repairs to all three Train 3 motors before they could be placed back into service.

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50. The same 75 MW Motor are utilized in Trains 1 and 2 of the LNG Facility. Given the prevalence of the Defects in the Train 3 motors, Plaintiffs believed that it was likely that the motors in Trains 1 and 2 are affected by the same Defects.

51. As a result, Plaintiffs implemented enhanced monitoring of Trains 1 and 2 and planned to perform inspections of Trains 1 and 2 after the repairs to Train 3 were completed. However, the enhanced monitoring performed on the Train 1 and 2 motors identified an increase in partial discharge and current abnormalities in one of the Train 2 motors. As such, Train 2 was taken offline for inspection prior to the completion of the repairs to Train 3.

52. Inspections of the Train 2 motors revealed additional workmanship issues, even moreso than those found in the inspections of the Train 3 motors. Not only did all 6 bolt assemblies dislodge from the protective micarta panel (as they did in the damaged Train 3 motor), but the micarta panel itself partially separated due to an approximately two-foot long bolt assembly dislodging from the underside of the panel. While one of the two-foot long bolt assemblies remained in place, the other bolt assembly became fully dislodged from the protective panel and appears to have dropped into the rotor portion of the motor and sheared into numerous smaller pieces (which caused additional damage to the motor internals).

53. The inspection of the Train 2 motor also identified substantial damage to the insulation on the motor's stator. The preliminary boroscope inspection of Train 2's 12K-31 motor identified that some bolt assemblies have dislodged from the micarta panels.

54. Given the extent of the faulty workmanship and poor condition of the bolt assemblies and cabling supports identified in Train 2, Plaintiffs made the decision to take Train 1 offline immediately to mitigate any possibility of damage to the Train 1 motors.

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55. FLIQ3 has incurred damages, costs, losses, and expenses as a result of the failure of the 75 MW motor on Train 3 and Contractor's failure to comply with its obligations and Warranties under the EPC Contracts, including investigatory and repair costs, removal and transportation costs for the 75 MW motor to be taken from its installed location to and from the off-site facility for repairs, costs to install a spare 75 MW motor into Train 3, and other costs and expenses incurred by FLIQ3 as a result of the Defects. FLIQ3 also incurred additional damages, costs, losses and expenses to carry out preventative maintenance on the other Train 3 motors.

56. FLIQ1 and FLIQ2 have or will incur similar damages, costs, losses and expenses as a result of the Contractor's failure to comply with its obligations and Warranties under the EPC Contracts in connection with the motors on Trains 1 and 2.

57. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim.

58. All conditions precedent to filing this action have or will soon occur.

VII. CAUSES OF ACTION

A. Breach of the EPC Contracts

59. Plaintiffs incorporate and reallege the preceding allegations as if fully set forth below.

60. Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts.

61. Defendants have breached their substantive performance obligations under Articles 2 and 3 of the EPC Contracts, as well as their Warranty obligations under Article 12 of the EPC Contracts, by at least the following acts and omissions:

a. Contractor's deficient bolt/washer/nut retention assembly design and its

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inadequate quality assurance/quality control during assembly,

b. Contractor's excessive cable length and increased bend radius of cabling resulting in significant partial discharge on the cable bundles, and

c. Contractor's deficient bolt assemblies, causing the bolts to become dislodged from the micarta panels and separation of the micarta panels themselves.

62. Defendants' acts and omissions constitute a breach of their obligations under the EPC Contracts, including, *inter alia*, the obligations to:

a. perform engineering, design, manufacture and fabrication "in accordance with the requirements of this Agreement" under Section 3.1A;

b. "perform the Work in accordance with GECP" under Section 3.1A, which includes "reasonable and prudent practices, methods, skill, care, techniques and standards" for the engineering, design and construction of LNG facilities;

c. "procure" and "assemble, erect and install all Equipment" under Section 3.2A;

d. "provide … inspection and quality control services" under Section 3.2B;

e. inspect the Work of their Subcontractors and "ensure that such work meets all the requirements of this Agreement" under Section 3.2D;

f. "perform, or cause to be performed, all design and engineering Work in accordance with this Agreement" under Section 3.2R and the equivalent language of Section 3.3A;

g. comply with their Warranty that the Equipment and each component thereof

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shall be "new, complete and of suitable grade for the intended function and use in accordance with this Agreement" under Section 12.1B(1);

h. comply with their Warranty that the Equipment and each component thereof shall be "in accordance with all of the requirements of this Agreement, including in accordance with GECP" under Section 12.1B(2); and

i. comply with their Warranty that the Equipment and each component thereof shall be "free from defects in design, material and workmanship" under Section 12.1B(3).

63. Plaintiffs have been damaged and are entitled to recover all amounts caused by Defendants' breaches of the EPC Contracts.

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

65. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim. Pursuant to Texas Civil Practice & Remedies Code § 38.001, Plaintiffs are entitled to recover its reasonable and necessary attorneys' fees.

VIII. REQUEST FOR RELIEF

66. Plaintiffs respectfully requests that Defendants be cited to appear and answer, and that Plaintiffs be granted judgment including the following relief:

a. all damages caused by Defendants' breaches of the EPC Contracts;

b. pre-judgment and post-judgment interest at the highest allowable rate;

c. costs and reasonable and necessary attorneys' fees; and

d. all other relief to which Plaintiffs are entitled.

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Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFFS FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC

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EXHIBIT C

Execution Version

FIXED PRICE SEPARATED TURNKEY AGREEMENT

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

FREEPORT TRAIN 1 LIQUEFACTION PROJECT

by and between

FLNG LIQUEFACTION, LLC

as Owner

and

ZACHRY INDUSTRIAL, INC. and CB&I INC.
as Contractor

Dated as of the 10th Day of December, 2013

TABLE OF CONTENTS

RECITALS 1

ARTICLE 1 DEFINITIONS 2

ARTICLE 2 RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS 20
2.1 Status of Contractor 20
2.2 Key Personnel, Organization Chart and Contractor Representative 21
2.3 Subcontractors and Sub-subcontractors 21
2.4 Subcontracts and Sub-subcontracts 22
2.5 Contractor Acknowledgements 24

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES 28
3.1 Scope of Work 28
3.2 Specific Obligations 29
3.3 Design and Engineering Work. 31
3.4 Spare Parts 33
3.5 Training Program in General 34
3.6 Environmental Regulations and Environmental Compliance 35
3.7 Contractor's Tools and Equipment 35
3.8 Employment of Personnel 35
3.9 Clean-up 37
3.10 Safety and Security 37
3.11 Emergencies 39
3.12 Approvals, Certificates, Permits and Licenses 39
3.13 Books, Records and Audits. 39
3.14 Tax Accounting 40
3.15 Temporary Utilities, Roads, Facilities and Storage 41
3.16 Subordination of Liens 41
3.17 Hazardous Materials 41
3.18 Quality Assurance 42
3.19 Reports and Meetings 43
3.20 Payment 44
3.21 Commercial Activities 44
3.22 Title to Materials Found 44
3.23 Survey Control Points and Layout 44
3.24 Cooperation with Others 45
3.25 Scheduled and Unscheduled Activities Involving Existing Facility 45
3.26 Responsibility for Property 46
3.27 Explosives 47
3.28 Nondiscrimination 47
3.29 Used or Salvaged Materials 47
3.30 Supervision of Owner's Operation Personnel 47
3.31 Use of Owner Equipment or Facilities 48

3.32 Compliance with Real Property Interests 49

ARTICLE 4 OWNER'S RESPONSIBILITIES 49
4.1 Payment 49
4.2 Permits 49
4.3 Access to the Site 49
4.4 Operation Personnel 49
4.5 Texas Sales and Use Taxes 50
4.6 Hazardous Materials 51
4.7 Legal Description and Survey 51
4.8 Owner Provided Items 51

ARTICLE 5 COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS 57
5.1 Commencement of Work 57
5.2 Limited Notice to Proceed/Notice to Proceed 57
5.3 Train 1 Project Schedule 61
5.4 CPM Schedule 61
5.5 Recovery and Recovery Schedule 65
5.6 Acceleration and Acceleration Schedule 66

ARTICLE 6 CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY 67
6.1 Change Orders Requested by Owner 67
6.2 Change Orders Requested by Contractor 69
6.3 Change Orders Requested by FLIQ2 Under the Train 2 EPC Agreement 71
6.4 Contract Price Adjustment; Contractor Documentation 72
6.5 Change Orders Act as Accord and Satisfaction 72
6.6 Timing Requirements for Notifications and Change Order Requests by Contractor 73
6.7 Adjustment Only Through Change Order. 74
6.8 Force Majeure 75
6.9 Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law 76
6.10 Delay 77
6.11 Contractor Obligation to Mitigate Delay 77
6.12 Separated Contract Price Adjustments in Change Orders 77
6.13 Change Orders Affecting Common Development Work or the Common Development Work Compensation 77
6.14 Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement 78
6.15 Adjustment to Schedule Bonus Date 80

ARTICLE 7 CONTRACT PRICE AND PAYMENTS TO CONTRACTOR 80
7.1 Contract Price 80
7.2 Contract Price Components 82
7.3 Interim Payments 83

7.4 Final Completion and Final Payment for Train 1-Specific Work and Common Development Work 85
7.5 Payments Not Acceptance of Work 85
7.6 Payments Withheld 85
7.7 Interest on Late Payments 86
7.8 Work Breakdown Structure 86
7.9 Payment Error 87
7.10 Currency 87
7.11 Conditions Precedent to Payment 88
7.12 Payments to Subcontractors 88
7.13 Retainage and Retention Letter of Credit 88
7.14 Payments by FLIQ CF 89

ARTICLE 8 TITLE AND RISK OF LOSS 90
8.1 Title 90
8.2 Risk of Loss 90

ARTICLE 9 INSURANCE AND LETTER OF CREDIT 93
9.1 Insurance 93
9.2 Irrevocable Standby Letter of Credit 94
9.3 Retention Letter of Credit 95
9.4 Financial Statements 96

ARTICLE 10 OWNERSHIP OF DOCUMENTATION 96
10.1 Ownership of Work Product 96
10.2 Return/Delivery of Certain Property 98
10.3 Contractor's License in Work Product 98
10.4 Owner Provided Documents 99

ARTICLE 11 COMPLETION MILESTONES 99
11.1 Notice and Requirements for RFSU and RLFC 99
11.2 Notice and Requirements for Substantial Completion 102
11.3 Owner Acceptance of RLFC and Substantial Completion 103
11.4 Minimum Acceptance Criteria as a Condition of Substantial Completion 103
11.5 Punchlist 107
11.6 Notice and Requirements for Final Completion 109
11.7 Partial Occupancy 109
11.8 Operations Activities 110
11.9 LNG Tankers Calling on the Facility 110
11.10 Long-Term Obligations 110

ARTICLE 12 WARRANTY AND CORRECTION OF WORK 111
12.1 Warranty 111
12.2 Correction of Work Prior to Substantial Completion of each Phase 112
12.3 Correction of Work After Substantial Completion of each Phase 113
12.4 Assignability of Warranties 114
12.5 Waiver of Implied Warranties 115

ARTICLE 13 GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES 115
13.1 Guarantee of Timely Completion 115
13.2 Delay Liquidated Damages 115
13.3 Schedule Bonus 115

ARTICLE 14 CONTRACTOR'S REPRESENTATIONS 116
14.1 Corporate Standing 116
14.2 No Violation of Law; Litigation 116
14.3 Licenses 116
14.4 No Breach 116
14.5 Corporate Action 116
14.6 Financial Solvency 117

ARTICLE 15 OWNER'S REPRESENTATIONS 117
15.1 Corporate Standing 117
15.2 No Violation of Law; Litigation 117
15.3 Licenses 117
15.4 No Breach 117
15.5 Corporate Action 117
15.6 Financing and Payment 118

ARTICLE 16 DEFAULT, TERMINATION AND SUSPENSION 118
16.1 Default by Contractor 118
16.2 Termination for Convenience by Owner 120
16.3 Suspension of Work 121
16.4 Suspension by Contractor 122
16.5 Termination by Contractor 122
16.6 Termination Due to Extended Force Majeure 122

ARTICLE 17 INDEMNITIES 122
17.1 General Indemnification 122
17.2 Injuries to Contractor's Employees and Damage to Contractor's Property 123
17.3 Injuries to Owner's Employees and Damage to Owner's Property 124
17.4 Owner's Patent and Copyright Indemnification 124
17.5 Contractor's Patent and Copyright Indemnification 124
17.6 Lien Indemnification 124
17.7 Legal Defense 125
17.8 Enforceability 126

ARTICLE 18 DISPUTE RESOLUTION 127
18.1 Negotiation 127
18.2 Mediation 127
18.3 Litigation 128
18.4 Continuation of Work During Dispute 128

ARTICLE 19 CONFIDENTIALITY....128
19.1 Contractor's Obligations....128
19.2 Owner's Obligations....129
19.3 Definitions....130
19.4 Exceptions....130
19.5 Equitable Relief....130
19.6 Term....130

ARTICLE 20 LIMITATION OF LIABILITY....130
20.1 Contractor Aggregate Liability....130
20.2 Damage to the Existing Facility and Expansion Facility After Substantial Completion....131
20.3 Limitation on Contractor's Liability for Delay Liquidated Damages....132
20.4 Delay Liquidated Damages In General....132
20.5 Consequential Damages....133
20.6 Owner Separate Contracts....134
20.7 Continuing Rights and Obligations....134
20.8 Application of Liability Limitations....134

ARTICLE 21 MISCELLANEOUS PROVISIONS....134
21.1 Entire Agreement....134
21.2 Amendments....135
21.3 Joint Effort....135
21.4 Captions....135
21.5 Notice....135
21.6 Severability....136
21.7 Assignment....136
21.8 No Waiver....137
21.9 Governing Law....137
21.10 Successors and Assigns....137
21.11 Attachments and Schedules....137
21.12 Obligations....137
21.13 Further Assurances....137
21.14 Priority....137
21.15 Restrictions on Public Announcements....138
21.16 Parent Guarantee....138
21.17 Foreign Corrupt Practices Act....138
21.18 Language....138
21.19 Counterparts....138
21.20 Owner's Lender(s)....138
21.21 Joint and Several Liability....139
21.22 Coordination Between this Agreement and Train 2 EPC Agreement....139
21.23 Survival....140

LIST OF ATTACHMENTS AND SCHEDULES

ATTACHMENT A	Scope of Work and Design Basis
SCHEDULE A-1	Scope of Work
SCHEDULE A-2	Design Basis – Pretreatment Facility
SCHEDULE A-3	Design Basis – Liquefaction Facility
ATTACHMENT B	Contractor Deliverables
ATTACHMENT C	Payment Schedule and Work Breakdown Structure Form
SCHEDULE C-1	Payment Milestone Schedule
SCHEDULE C-2	Maximum Cumulative Payment Schedule
SCHEDULE C-3	Form of Work Breakdown Structure
ATTACHMENT D	Form of Change Order
SCHEDULE D-1	Change Order Form
SCHEDULE D-2	Unilateral Change Order Form
SCHEDULE D-3	Contractor's Change Order Request Form
SCHEDULE D-4	Pricing for Change Orders
ATTACHMENT E	Train 1 Project Schedule, Schedule Milestones and Delay Liquidated Damages
ATTACHMENT F	Key Personnel and Contractor's Organization
ATTACHMENT G	Approved Subcontractors and Sub-subcontractors
ATTACHMENT H	Notice to Proceed Forms
SCHEDULE H-1	Form of Limited Notice to Proceed
SCHEDULE H-2	Form of Notice to Proceed
SCHEDULE H-3	LNTP No. 1
ATTACHMENT I	Form of Contractor's Invoices

SCHEDULE I-1	Form of Contractor's Interim Invoice for Train 1-Specific Work
SCHEDULE I-2	Form of Contractor's Interim Invoice for Common Development Work
SCHEDULE I-3	Form of Contractor's Final Invoice for Train 1-Specific Work
SCHEDULE I-4	Form of Contractor's Final Invoice for Common Development Work
ATTACHMENT J	Health, Safety, Security and Environmental Management Plan
ATTACHMENT K	Form of Lien and Claim Waivers
SCHEDULE K-1	Contractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-2	Contractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-3	Subcontractor's Conditional Waiver and Release on Progress Payment
SCHEDULE K-4	Subcontractor's Conditional Claim Waiver and Release on Progress Payment
SCHEDULE K-5	Contractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-6	Contractor's Conditional Claim Waiver and Release on Final Payment
SCHEDULE K-7	Subcontractor's Conditional Waiver and Release on Final Payment
SCHEDULE K-8	Subcontractor's Conditional Claim Waiver and Release on Final Payment
ATTACHMENT L	Form of RFSU Certificate
ATTACHMENT M	Form of Substantial Completion Certificate
ATTACHMENT N	Form of Final Completion Certificate
ATTACHMENT O	Insurance Requirements

ATTACHMENT P	Contractor Permits
ATTACHMENT Q	Owner Permits
ATTACHMENT R	Form of Irrevocable, Standby Letter of Credit and Retention Letter of Credit
SCHEDULE R-1	Form of Irrevocable, Standby Letter of Credit
SCHEDULE R-2	Form of Retention Letter of Credit
ATTACHMENT S	Performance Tests
ATTACHMENT T	Minimum Acceptance Criteria and other Performance Requirements
ATTACHMENT U	Form of Parent Guarantee
ATTACHMENT V	Pre-Commissioning, Commissioning, Start-Up, Training and Turnover Program
ATTACHMENT W	Capital Spare Parts List
ATTACHMENT X	Reporting Requirements
ATTACHMENT Y	Site
SCHEDULE Y-1	Existing Facility Site and Expansion Facility Site on Quintana Island
SCHEDULE Y-2	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas on Quintana Island
SCHEDULE Y-3	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas at the Pretreatment Facility Location
ATTACHMENT Z	Owner-Provided Items
ATTACHMENT AA	Form of RLFC Certificate
ATTACHMENT BB	Subsurface Documents
ATTACHMENT CC	Interfaces and Tie-Ins with Existing Facility
ATTACHMENT DD	Adjustment for Provisional Sums

ATTACHMENT EE	Owner's Quality Management General Requirements
ATTACHMENT FF	Owner Provided List of Tax Exempt and Taxable Equipment
ATTACHMENT GG	Owner's Texas Direct Pay Exemption Certificate and Texas Sales and Use Tax Exemption Certificate
ATTACHMENT HH	Adjustment for Piles
ATTACHMENT II	Fill for Site
ATTACHMENT JJ	Form of Equipment Sharing Agreement

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 1 LIQUEFACTION PROJECT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 1 LIQUEFACTION PROJECT (this "***Agreement***"), dated as of the 10th Day of December, 2013 (the "***Effective Date***"), is entered into by FLNG Liquefaction, LLC, a Delaware limited liability company ("***Owner***"), and CB&I Inc., a Texas corporation, and Zachry Industrial, Inc., a Delaware corporation, with CB&I and Zachry hereinafter collectively referred to as "***Contractor***", and with each of Owner and Contractor sometimes referred to individually herein as a "***Party***" and collectively as the "***Parties***".

RECITALS

WHEREAS, Owner's affiliate, Freeport LNG Development, L.P. ("***FLNG Development***") owns and operates an existing LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas (as defined in greater detail in Section 1.1, the "***Existing Facility***"); and

WHEREAS, Owner intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that will modify, and be interconnected with, the Existing Facility (as more fully described herein, the "***Train 1 Expansion***"). The engineering, procurement, construction, pre-commissioning, commissioning and testing of the Train 1 Expansion is hereby referred to as the "***Train 1 Project***"; and

WHEREAS, another affiliate of Owner, FLNG Liquefaction 2, LLC ("***FLIQ2***"), intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 1 Expansion (except for the Common Development Work), and will modify, and be interconnected with, the Existing Facility and the Train 1 Expansion as well as share the Common Systems with the Train 1 Expansion and share the Existing Facility Modifications with both the Existing Facility and the Train 1 Expansion (as defined in greater detail in Section 1.1, the "***Train 2 Expansion***"); and

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 Contractor, dated December 10, 2013 (hereinafter, the "***Train 2 EPC Agreement***");

WHEREAS, CB&I and Zachry, 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 1 Project on a fixed price, turnkey basis (which fixed price is separated for tax purposes).

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

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

"***Abandonment of the Train 1 Project***" means, prior to the acceptance by Owner of the Substantial Completion Certificate, Contractor's express refusal to perform substantially all home office activities and field construction operations in a manner that objectively manifests the intent by Contractor of not completing the Work under this Agreement. For the avoidance of doubt, Contractor shall not be alleged to have implicitly, expressly, or constructively abandoned the Train 1 Project or the Work as a result of Owner terminating Contractor pursuant to Section 16.1 for a Default, other than a Default pursuant to Section 16.1A(iii) for an "Abandonment of the Train 1 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, FLIQ2, FLNG Liquefaction 3, LLC, FLIQ1 Holdings, LLC, FLIQ2 Holdings, LLC, FLIQ3 Holdings, LLC and FLNG Development as well as any Affiliate of FLNG Development; *provided further, however*, with respect to Owner, and for purposes of clarity, ConocoPhillips Company shall not be an "Affiliate" of Owner. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

"***Aggregate Provisional Sum***" has the meaning set forth in Section 7.1.

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards

and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality (including the Electric Reliability Council of Texas) 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 or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions of the Train 1 Project, as required under Attachment B.

"***Baseline CPM Schedule***" has the meaning set forth in Section 5.4A.

"***Books and Records***" has the meaning set forth in Section 3.13A.

"***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 United States of America.

"***Btu***" means a British thermal unit.

"***CAD***" has the meaning set forth in Section 3.3E.

"***Capital Spare Parts***" shall mean those spare parts listed in Attachment W for use after Substantial Completion which are to be included in the Work and the Contract Price as further set forth in Section 3.4B.

"***CB&I***" has the meaning set forth in Section 21.21.

"***CB&I Guarantor***" means Chicago Bridge & Iron Company N.V.

"***CenterPoint***" means CenterPoint Energy, or any successor entity thereto.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of

the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1A.

"***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 inventory, revenue, income, profits/losses or cost of finance or withholding Tax) that occurs and takes effect after the Effective Date.

"***Common Contract Price Component***" has the meaning set forth in Section 7.2A.

"***Common Development Work***" means all Work performed under this Agreement to design, engineer, procure, construct, pre-commission, commission and test the Common Systems (including the Expansion Facility Dock and Existing Facility Modifications). The Common Development Work shall include all direct and indirect labor and materials provided to develop the Common Systems, including, permanent materials, bulks and commodities, Subcontractor and Sub-subcontractor supplies and services, construction equipment, supplies, small tools, scaffolding, spare parts, pre-commissioning, commissioning and start-up activities, home office services, project management services, temporary facilities, training, general site services and supplies, temporary utilities, security, and Subcontractor and Sub-subcontractor support, all to the extent necessary for the development of the Common Systems as part of the Expansion Facility. For purposes of clarity, the scope of the Common Development Work under this Agreement shall be the same scope of work defined as "Common Development Work" under the Train 2 EPC Agreement, and Contractor shall be obligated to fully complete such Common Development Work as set forth in this Agreement. While the intent of Owner, Contractor and FLIQ2 is that the Common Development Work under both this Agreement and the Train 2 EPC Agreement is an identical and fully overlapping scope of work, in the event of a conflict or discrepancy between this Agreement and the Train 2 EPC Agreement with respect to such Common Development Work, Owner and FLIQ2 shall jointly resolve such conflict or discrepancy and Owner will direct Contractor accordingly under this Agreement and FLIQ2 will direct Contractor accordingly under the Train 2 EPC Agreement.

"***Common Development Work Compensation***" has the meaning set forth in Section 7.2A.

"***Common Systems***" means those portions of the Work which will be utilized by both the Train 1 Expansion and Train 2 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Expansion Facility Dock and Existing Facility Modifications. The applicable Common Systems will be designed, procured and constructed such that both the Train 1 Expansion and Train 2 Expansion may be operated simultaneously or individually at the design conditions set forth in this Agreement (with respect to the Train 1 Expansion) and the design conditions set forth in the Train 2 EPC Agreement (with respect to the Train 2 Expansion). The Common Systems are listed in Sections 4.1.1 and 4.2.1 of Schedule A-1.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Contract Price***" has the meaning set forth in Section 7.1. For purposes of clarity, the Contract Price shall equal the sum of the Train 1-Specific Contract Price Component and the Common Contract Price Component.

"***Contract Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, its limited or general partners, its members and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, employees, representatives and invitees of each Person specified in clause (i) above. A "Contractor Indemnified Party" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work, except for any limitations specified in such notice.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

"***Contractor's Intellectual Property***" has the meaning set forth in Section 10.1B.

"***Corrective Work***" has the meaning set forth in Section 12.3.

"***CPM Schedule***" means the Baseline CPM Schedule (as it may be updated from time to time in accordance with this Agreement) or Monthly Updated CPM Schedules, as the context requires.

"***Cure Period***" has the meaning set forth in Section 16.1A.1.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1A.

"***Defect***" or "***Defective***" has the meaning set forth in Section 12.1A.

"***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; *provided that*, (i) the Defect Correction Period for that portion of the Common Systems that achieves substantial completion under the Train 2 EPC Agreement (in accordance with Section 11.2A) shall extend until eighteen (18) months from the date of substantial completion established under the Train 2 EPC Agreement (as such period may be extended pursuant to the Train 2 EPC Agreement) and (ii) notwithstanding the foregoing, with respect to the Existing Facility Modifications, the Defect Correction Period

shall be the period commencing upon Handover of the applicable Existing Facility Modifications and ending eighteen (18) months thereafter, as may be extended in accordance with Section 12.3B.

"***Defective MCHE***" means, for purposes of Section 11.4B only, an MCHE that fails to achieve its performance guarantees as fully defined in the equipment purchase agreement for the MCHE between APCI and Contractor. For all other purposes within the Agreement, a Defective MCHE shall mean an MCHE that has a Defect as defined in Section 12.1A.

"***Delay Liquidated Damages***" shall mean any or all of the (a) RLFC Delay Liquidated Damages, (b) Substantial Completion Delay Liquidated Damages, (c) Record As-Built Delivery Requirement Delay Liquidated Damages or (d) MCHE Replacement Delay Liquidated Damages, as the context requires.

"***Design Basis***" means the basis of design and technical limits and parameters of the Expansion Facility as set forth in Schedules A-2 and A-3.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" has the meaning set forth in Section 18.1.

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***Equipment***" means all equipment and materials required for incorporation into the Train 1 Expansion.

"***Equipment Sharing Agreement***" means that certain Equipment Sharing Agreement, to be executed by Owner, FLIQ CF, Contractor, FLIQ2 and other signatories relating to the sharing of items of equipment among Owner, FLIQ CF, FLIQ2 and other signatories, which such Equipment Sharing Agreement shall be substantially in the form attached hereto as Attachment JJ.

"***Existing Facility***" means Owner's Affiliates' (including FLNG Development and its Affiliates) existing (i) LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas, (ii) Stratton Ridge natural gas metering station, (iii) forty-two inch (42") diameter natural gas pipeline connecting the Stratton Ridge natural gas metering station to the terminal on Quintana Island, and (iv) underground natural gas storage cavern located near Stratton Ridge and its related natural gas storage infrastructure and compression facilities.

"***Existing Facility Modifications***" has the meaning set forth in Section 11.2B.

"***Existing Facility Site***" means those areas where the Existing Facility is located as shown in greater detail in Schedule Y-1.

"***Expansion Facility***" means both the Train 1 Expansion and Train 2 Expansion, including all Common Systems.

"***Expansion Facility Dock***" means the LNG loading and unloading dock to be constructed as part of the Expansion Facility, including all marine piling, concrete structures, mooring dolphins, and topside Equipment, as further described in Section 4.12.5 of Schedule A-1.

"***Expansion Facility Dock Price***" means Thirty Four Million One Hundred Seventy Eight Thousand Five Hundred Seventy-Eight U.S. Dollars ($34,178,578), as such value may be adjusted from time to time by Change Orders executed by the Parties in accordance with this Agreement.

"***Expansion Facility Site***" means those areas comprised of the Train 1 Expansion Site, Train 2 Expansion Site and other Expansion Facility Site areas as shown in greater detail in Attachment Y.

"***Facility***" means both the Expansion Facility and the Existing Facility.

"***FEED Agreement***" means the Front End Engineering Design Services Agreement between Freeport LNG Expansion, L.P. and Contractor, dated January 30, 2012.

"***FERC***" means the Federal Energy Regulatory Commission.

"***FERC Order***" means the Order Granting Authorization under Section 3 of the Natural Gas Act, issued by FERC to Owner in connection with the Expansion Facility, as may be amended or modified.

"***Final Completion***" means that all Work (including the Work to complete the Expansion Facility Dock) and all other obligations under the Agreement (except for those obligations that survive the termination or expiration of this Agreement, including obligations for Warranties, correction of Defective Work and those covered, without limitation, by Section 11.10), are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of RLFC and Substantial Completion; (ii) the successful achievement of the Minimum Acceptance Criteria for the Expansion Facility Dock; (iii) the successful achievement of the MCHE Power Performance Guarantee or, if the MCHE Power Performance Guarantee was not achieved but the Total Gas Horsepower (as determined in accordance with Attachments S and T) was equal to or less than 105% of the MCHE Power Performance Guarantee, the MCHE Power Performance Guarantee Liquidated Damages in accordance with Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (iv) the successful achievement of the Gross Power Output Performance Guarantee and Gross Heat Rate Performance Guarantee (as described in Attachments S and T), or in the case that either such Performance Guarantee has not been achieved, the Gross Power Output Performance Liquidated Damages and Gross Heat Rate Performance Liquidated Damages, as applicable, due and owing as set forth in Attachment T have been

paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (v) the completion of all Punchlist items; (vi) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers in the forms of Schedules K-5 and K-6; (vii) delivery by Contractor to Owner of all remaining documentation required to be delivered under this Agreement, including Owner's Confidential Information, test reports, and the documentation required under Attachment B and Attachment EE; (viii) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractor's personnel, supplies, waste, materials, equipment (except Equipment), rubbish, Hazardous Materials, and temporary facilities (other than those personnel, supplies, waste, materials, equipment, rubbish, Hazardous Materials and temporary facilities associated with the Train 2-Specific Work or Common Systems that achieve substantial completion under the Train 2 EPC Agreement); (ix) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers from all Major Subcontractors in the forms in Schedules K-7 and K-8; (x) if requested by Owner, fully executed Final Lien and Claim Waivers from Major Sub-subcontractors in a forms substantially similar to the forms in Schedule K-7 and K-8; and (xi) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 11.6, which Owner has accepted by signing such certificate.

"***Final Completion Certificate***" has the meaning set forth in Section 11.6.

"***Final Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.4, which shall be in the form of Attachment K, Schedules K-5, K-6, K-7 and K-8.

"***First RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Fixed Sum Prices***" has the meaning set forth in Attachment DD.

"***FLIQ CF***" means FLIQ Common Facilities, LLC.

"***FLIQ2***" has the meaning set forth in the Recitals.

"***FLNG Development***" has the meaning set forth in the Recitals.

"***Force Majeure***" means catastrophic storms (including ice storms) or flooding, lightning, tornadoes, hurricanes, named tropical storms, earthquakes and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, was not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship, (ii) changes in market conditions, (iii) late delivery or failure of

materials, equipment (including Equipment) or supplies unless due to a Force Majeure event, (iv) strikes, or other similar labor actions of Contractor or its Subcontractors or Sub-subcontractors, except Subcontractors (or their associated Sub-subcontractors) providing the main cryogenic heat exchanger, refrigeration compressor packages, major inline cryogenic valves or non-U.S. liquefaction air coolers, *provided that* with respect to the foregoing excepted Subcontractors and Sub-subcontractors, Contractor's relief for such strikes or other similar labor actions shall be limited to an extension to the Guaranteed Substantial Completion Date and the Required Final Completion Date pursuant to Section 6.8A.1 (and does not include adjustments to the Contract Price pursuant to Section 6.8A.2(b)), (v) unavailability of laborers, Subcontractors or Sub-subcontractors, or (vi) climatic conditions (including rain, snow, wind, temperature and other weather conditions), tides, and seasons, regardless of the magnitude, severity, duration or frequency of such climatic conditions, tides or seasons, *provided that* such climatic conditions, tides and seasons do not include catastrophic storms (including ice storms) or floods, lightning, tornadoes, hurricanes, named tropical storms or earthquakes meeting the requirements of a Force Majeure, or (vii) nonperformance or delay by Contractor or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay is otherwise caused by a Force Majeure.

"***Fourth RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards employed by the liquefied natural gas engineering and construction industries with respect to: (i) the engineering, procurement, construction, pre-commissioning, commissioning, testing and start-up of natural gas treatment and liquefaction facilities in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A. For clarification, GECP does not necessarily require compliance with the World Bank's noise guidelines, but Contractor shall nevertheless comply with noise levels and guidelines required by Permits, Applicable Law and Applicable Codes and Standards.

"***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.

"***Gross Negligence or Willful Misconduct***" shall have the meanings as determined under the governing law of this Agreement as set forth in Section 21.9.

"***Guaranteed Record As-Built Delivery Date***" has the meaning set forth in Section 3.3F.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3A.

"***Guarantor***" means CB&I Guarantor and Zachry Guarantor.

"***Handover***" has the meaning set forth in Section 11.2B. For purposes of clarity, the phrase "***Handed Over***" shall have the same meaning as Handover.

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***IFC***" has the meaning set forth in Section 5.4A.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Intellectual Property Rights***" means patents, utility models, registered designs and models, trademarks, trade secrets, service marks, copyrights, applications for any of the foregoing and rights to apply for any of the foregoing, proprietary information and know-how, whether patentable or not, and any similar right.

"***Interim Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.3D, which shall be in the form of Attachment K, Schedules K-1, K-2, K-3 and K-4.

"***Investment Grade***" has the meaning set forth in Section 9.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.3 for a progress payment and pursuant to Section 7.4 for final payment, which invoice shall be in the form of Schedule I-1 or I-2, as applicable, for progress payments and Schedule I-3 or I-4, as applicable, for final payment.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2A.

"***Labor and Skills Price***" has the meaning set forth in Section 7.1C.

"***Lender***" means any entity or entities providing temporary or permanent debt financing for the Expansion Facility.

"***Letter of Credit***" has the meaning set forth in Section 9.2.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 3.3B.

"***LNG***" means liquefied Natural Gas.

"***LNG Evacuation Requirement***" has the meaning set forth in Section 4.8D.

"***LNG Production Rate***" means the average hourly LNG rundown rate over the 72-hour LNG Production Rate Performance Test measured at the outlet of the LNG liquefaction unit (at the final flow measuring device downstream of the MCHE prior to entering the common rundown header). The LNG Production Rate shall be established in a continuous 72-hour LNG Production Rate Performance Test without any process trips.

"***LNG Production Rate MAC***" means the Train 1 Expansion is capable of achieving an average (continuous, without any process trips) hourly LNG rundown rate equivalent to 566.8 metric tonnes per hour, when processing natural gas at the condition and of the composition defined in the design case (average gas) at an ambient Site temperature of 71 degrees Fahrenheit during the 72-hour LNG Production Rate Performance Test.

"***LNG Production Rate Performance Test***" has the meaning set forth in Attachment S.

"***LNG Tanker***" means any ocean-going vessel used by Owner, a customer of the Facility or their designee for the transportation of LNG.

"***LNTP No. 1***" has the meaning set forth in Section 5.2A.1.

"***LNTP No. 2***" has the meaning set forth in Section 5.2A.2.

"***LNTP No. 3***" has the meaning set forth in Section 5.2A.3.

"***Major Subcontract***" means any Subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Subcontractor for Work listed in Section 3 of Attachment G.

"***Major Subcontractor***" means the Subcontractors listed as such in Attachment G and, in addition, any Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means any Sub-subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this

Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Sub-subcontractor for Work listed in Section 3 of Attachment G.

"***Major Sub-subcontractor***" means the Sub-subcontractors listed as such in Attachment G and, in addition, any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Maximum Cumulative Payment Schedule***" has the meaning set forth in Section 7.3F.

"***MCHE***" means the main cryogenic heat exchanger for the Train 1 Expansion.

"***MCHE Power Performance Guarantee***" has the meaning set forth in Attachment T.

"***MCHE Power Performance Guarantee Liquidated Damages***" has the meaning set forth in Attachment T.

"***MCHE Replacement Delay Liquidated Damages***" has the meaning set forth in Section 11.4B.2.

"***MCHE Replacement Scenario***" has the meaning set forth in Section 11.4B.

"***MCHE Replacement Scenario Verification Notice***" has the meaning set forth in Section 11.4B.1.

"***Minimum Acceptance Criteria***" or "***MAC***" means the LNG Production Rate MAC, the Ship Loading Rate MAC for the Existing Facility's LNG loading dock and the Ship Loading Rate MAC for the Expansion Facility Dock, all as further specified in Attachment T.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 11.4A.

"***Minimum Acceptance Criteria Testing Conditions***" are the Performance Test conditions set forth in Attachment S.

"***MMBtu***" means one million (1,000,000) Btus.

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring, or an action taken, once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.19A.4.

"***Monthly Updated CPM Schedule***" has the meaning set forth in Section 5.4B.

"***Notice to Proceed***" or "***NTP***" has the meaning set forth in Section 3.3B.

"***NTP Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) Owner, its parent, its limited or general partners, its members, Lenders, ConocoPhillips Company, any other Persons with an ownership interest in the Expansion Facility or the Existing Facility and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Mark Mallett as the Owner Representative. Notification of a change in Owner Representative shall be provided in advance, in writing, to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.16.

"***Party***" or "***Parties***" means Owner and/or Contractor and their successors and permitted assigns.

"***Payment Milestone***" means a designated portion of the Work as shown the Payment Milestone Schedule.

"***Payment Milestone Schedule***" means the schedule set forth in Schedule C-1, which sets out the payments to be paid based on completion of the Payment Milestones.

"***Performance Guarantee***" means the MCHE Power Performance Guarantee, Gross Power Output Performance Guarantee and the Gross Heat Rate Performance Guarantee, as further set forth in Attachment T.

"***Performance Liquidated Damages***" shall mean the Gross Power Output Performance Liquidated Damages, the Gross Heat Rate Performance Liquidated Damages and the MCHE Power Performance Liquidated Damages, as further set forth in Attachment T.

"***Performance Tests***" means those tests performed to determine whether the Minimum Acceptance Criteria and Performance Guarantees have been achieved for the Train 1 Expansion, which tests shall be set forth in Attachment S and, to the extent not specified therein, as developed in accordance with Section 11.2.

"***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.

"***Person***" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.

"***Piles***" has the meaning set forth in Section 2.5B.2(i).

"***Provisional Substantial Completion***" has the meaning set forth in Section 11.4B.6.

"***Provisional Sum***" has the meaning set forth in Attachment DD.

"***Provisional Sum Scope Items***" has the meaning set forth in Attachment DD.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Facility, as more fully described in Section 11.5 of this Agreement.

"***Qualified Force Majeure Event***" has the meaning set forth in Section 6.8A.2(b).

"***Quality Management System***" means the system, including quality plans and procedures, used by Contractor to direct and control its organization with regard to quality, the requirements of which are set forth in Section 3.18 and Attachment EE.

"***Ready for Startup***" or "***RFSU***" means that all of the following have occurred with respect to the applicable system or subsystem of the Equipment for the Train 1 Project: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation, and pre-commissioning and commissioning checks and tests of all Equipment (including all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) for such applicable system or subsystem of the Equipment to ensure that all such Equipment was fabricated, assembled, erected and installed and is capable of being properly operated, all within the requirements and specifications contained in this Agreement (and without damage to the Work, the Facility or any other property and without injury to any Person), all as set forth in greater detail in Attachment A and the RFSU checklists agreed by Owner and Contractor in accordance with Section 11.1A; (ii) Contractor and Owner have agreed upon an initial Punchlist of items as set forth in Section 11.5A and those Punchlist items necessary for achieving RFSU have been successfully completed by Contractor (including all A and B classified Punchlist items); (iii) Contractor has delivered to Owner an RFSU Certificate for the applicable system or subsystem in the form of Attachment L; (iv) Contractor has provided Owner with all documentation for RFSU, including the System Compilation Manuals, as required under Attachment B; (v) the requirements related to RFSU set forth in Attachment V (including the prestart-up safety review and walk-down between Owner and Contractor) have been achieved and the Owner approvals related thereto have been given; and (vi) the quality requirements of Attachment EE related to RFSU have been successfully completed and related documentation provided to Owner.

"***RFSU of the Train 1 Expansion***" shall mean that RFSU has been achieved for all systems and subsystems of the Train 1 Expansion except those systems or subsystems of Equipment within the Expansion Facility Dock.

"***Ready To Load First Cargo***" or "***RLFC***" means that all of the following have occurred with respect to the Train 1 Expansion (except for the Work on the Expansion Facility Dock, which the Parties agree is not necessary to meet the following conditions in order for the Train 1 Expansion to achieve RLFC): (i) the successful achievement of Ready For Start Up of all systems and subsystems of all Equipment; (ii) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment and all systems and subsystems of all Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up, to ensure that the Work (including all Common Systems necessary to support the Train 1 Expansion) and each component thereof was correctly fabricated, assembled, erected and installed, has been correctly integrated into the Existing Facility, and is capable of being operated within the requirements contained in this Agreement and without damage to the Work, the Facility, any other property or the environment and without injury to any Person, as set forth in greater detail in Attachment A; (iii) Contractor has successfully completed the process of drying out and purging all systems and subsystems; (iv) the Train 1 Expansion meets the additional requirements for RLFC set forth in Attachment A and Attachment V; (v) the Train 1 Expansion has liquefied natural gas into at least 150,000 m^3 of LNG meeting all specifications and requirements of this Agreement (other than the Minimum Acceptance Criteria and Performance Guarantees) and successfully transferred and stored such LNG into the Existing Facility's LNG storage tank; (vi) all LNG loading and unloading lines (and Equipment and systems related thereto) necessary for transfer of LNG from the Existing Facility's LNG storage tank to the Existing Facility's dock, have been cooled down and are ready for transfer of LNG to an LNG Tanker; (vii) Contractor has completed all Punchlist items necessary for achievement of RLFC pursuant to Section 11.5B and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5B; and (viii) Contractor has delivered to Owner an RLFC Certificate in the form of Attachment AA and Owner has accepted such certificate by signing such certificate.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Delivery Requirement***" has the meaning set forth in Section 3.3F.

"***Record As-Built Delivery Requirement Delay Liquidated Damages***" has the meaning set forth in Section 13.2B.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications of the Train 1 Project showing the "as-built" conditions of the Train 1 Expansion, as required under Attachment B.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means that certain information provided by Owner, which is expressly identified in Attachment Z as being Rely Upon Information, that Contractor shall be entitled to rely upon in the performance of the Work under this Agreement.

"***Replacement Timeline***" has the meaning set forth in Section 11.4B.2.

"***Required Final Completion Date***" has the meaning set forth in Section 5.3B.

"***Retainage***" has the meaning set forth in Section 7.13A.

"***Retention Letter of Credit***" has the meaning set forth in Section 9.3.

"***RFSU Certificate***" has the meaning set forth in Section 11.1A.

"***RLFC Certificate***" is the Contractor certification for achievement of RLFC in the form set forth in Attachment AA.

"***RLFC Delay Liquidated Damages***" has the meaning set forth in Section 11.1D.1.

"***Schedule Adjustment Items***" has the meaning set forth in Attachment DD.

"***Schedule Bonus Date***" means 1,461 Days following Contractor's receipt of LNTP No. 3. The Schedule Bonus Date shall only be adjusted by Change Order as provided in this Agreement, including as allowed by Attachment DD.

"***Schedule Milestones***" means those milestones for completion of certain portions of the Work as further set forth in Attachment E.

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Attachment A.

"***Second RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Senior Supervisory Personnel***" means the following positions of Contractor's project management team: (i) Project Executive, (ii) Project Manager, (iii) Engineering Manager, (iv) Site Construction Director, (v) Deputy Site Construction Director, (vi) Commissioning & Start-up Manager, (vii) Health, Safety and Security Manager, (viii) Procurement Manager, (ix) Project Controls Manager and (x) QA/QC Manager.

"***Ship Loading Performance Test***" has the meaning set forth in Attachment S.

"***Ship Loading Rate MAC***" has the meaning set forth in Attachment S.

"***Site***" means the Expansion Facility Site and the Existing Facility Site together, as further described in Attachment Y.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct contract with Contractor to manufacture or supply Equipment which is a portion of the Work, to lease equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or materials.

"***Substantial Completion***" means that all of the following have occurred with respect to the Train 1 Expansion (except the Work for the Expansion Facility Dock, which the Parties agree is not necessary to meet the following conditions in order for the Train 1 Expansion to achieve Substantial Completion): (i) Ready For Start Up has been achieved for all systems and subsystems of Equipment for the Train 1 Expansion; (ii) RLFC has been achieved and the RLFC Certificate has been delivered by Contractor to Owner and Owner has accepted such certificate by signing such certificate; (iii) all Minimum Acceptance Criteria have been achieved (except the Minimum Acceptance Criteria for the Expansion Facility Dock); (iv) Contractor has completed all items on the Punchlist that are required to achieve Substantial Completion, and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5C; (v) any RLFC Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (vi) the Work has been completed (including training, manuals and the delivery of all documentation required for operation), except for Work on the Punchlist; (vii) Contractor has delivered to Owner the Substantial Completion Certificate in the form of Attachment M and as required under Section 11.2 and Owner has accepted such certificate by signing such certificate; (viii) the Train 1 Expansion has been integrated into the Existing Facility and is available for full commercial operation, including loading of LNG Tankers from the Existing Facility's LNG storage tanks, in accordance with the requirements of this Agreement; (ix) Contractor has obtained all Permits for the Train 1 Expansion required by Section 3.12; (x) Contractor has delivered to Owner fully executed Interim Lien and Claim Waivers in the forms of Schedules K-1 and K-2, fully executed Interim Lien and Claim Waivers from all Major Subcontractors in the forms of Schedules K-3 and K-4 and, if requested by Owner, fully executed Interim Lien and Claim Waivers from all Major Sub-subcontractors substantially in the forms of Schedules K-3 and K-4, covering all Work up to the date of Substantial Completion; (xi) Contractor has assigned to or provided Owner with all Warranties related to the Work to the extent Contractor is obligated to do so pursuant to this Agreement; (xii) Contractor has delivered all documentation to Owner which it is required under the Agreement to provide at or prior to Substantial Completion pursuant to Attachment B; and (xiii) the quality requirements of Attachment EE related to Substantial Completion have been successfully completed and related documentation provided to Owner.

"***Substantial Completion Certificate***" is the Contractor certification for achievement of Substantial Completion in the form set forth in Attachment M.

"***Substantial Completion Delay Liquidated Damages***" has the meaning set forth in Section 13.2A.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Equipment which comprises a portion of the Work, to lease equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor, materials or equipment (including Equipment).

"***Tax Exempt Equipment***" has the meaning set forth in Section 4.5A.2.

"***Tax Exempt Equipment Price***" has the meaning set forth in Section 7.1A.

"***Taxable Equipment***" has the meaning set forth in Section 7.1B.

"***Taxable Equipment Price***" has the meaning set forth in Section 7.1B.

"***Taxes***" means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes (excluding any Texas state and applicable local sales and use taxes on Tax Exempt Equipment and Taxable Equipment), gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium**,** franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

"***Third Party Proprietary Work Product***" has the meaning set forth in Section 10.1B.

"***Third RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Train 1 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under this Agreement in order to meet the Minimum Acceptance Criteria and Performance Guarantees and includes a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems (including the Expansion Facility Dock and the Existing Facility Modifications) and other systems, all as further set forth in this Agreement (particularly Attachment A). For purposes of clarity, the Train 1 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 1 Expansion Site***" means those areas where the Train 1 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 1 Project***" has the meaning set forth in the Recitals.

"***Train 1 Project Schedule***" means the schedule of dates in which Contractor is required to achieve certain stages of completion of the Train 1 Expansion, including the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Guaranteed Record As-Built Delivery Date and the Schedule Milestones, as more particularly described in Sections 3.3F and 5.3 and Attachment E.

"***Train 1-Specific Work***" means that portion of the Work that directly benefits, or is necessary for, the Train 1 Expansion only and does not provide any benefit, and is not otherwise necessary, for the Train 2 Expansion. For clarity, the Train 1-Specific Work is all Work performed under this Agreement that is not Common Development Work.

"***Train 1-Specific Contract Price Component***" has the meaning set forth in Section 7.2B.

"***Train 2 Expansion Site***" means those areas where the Train 2 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 2 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 2 Expansion***" means the facilities, and all appurtenances related thereto, to be designed, procured and constructed under the Train 2 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems necessary to operate the Expansion Facility (including the Expansion Facility Dock and the Existing Facility Modifications) and all other systems, all as further set forth in the Train 2 EPC Agreement. For purposes of clarity, the Train 2 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 2-Specific Work***" means work performed under the Train 2 EPC Agreement by or on behalf of Contractor that is not also part of the Work performed under this Agreement.

"***Unforeseen Subsurface Condition***" means any unforeseen (i) caverns or seismic faults, (ii) material subsurface obstructions, whether manmade or natural, or (iii) subsurface fossils, antiquities or other archeological finds, which, in the case of any of the above, were encountered by Contractor in the performance of the Work and (a) were not identified in any soils information or any other documents provided to Contractor by Owner, (b) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections, investigations or work performed by Contractor or any of its Subcontractors or Sub-subcontractors prior to the Effective Date and (c) with respect to (i) and (ii) only, are materially different from those that are reasonably expected to be encountered due to the nature of the Site.

"***Updated Contract Price and Train 1 Project Schedule Proposal***" has the meaning set forth in Section 5.2C.3.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Value of Foreign Currency***" has the meaning set forth in Section 7.10B.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 12.1A.

"***Weekly Progress Report***" has the meaning set forth in Section 3.19A.3.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, procurement, engineering, design, fabrication, erection, installation, manufacture, delivery, transportation, storage, construction, workmanship, labor, pre-commissioning, commissioning, inspection, training, Performance Tests, other tests, start-up and any other services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1A and any Corrective Work. Without limiting the foregoing, the Work is comprised of the Train 1-Specific Work and the Common Development Work.

"***Work Breakdown Structure***" has the meaning set forth in Section 7.8.

"***Work Product***" has the meaning set forth in Section 10.1A.

"***30 Day Look-ahead Schedule***" has the meaning set forth in Section 5.4D.

"***Zachry***" has the meaning set forth in Section 21.21.

"***Zachry Guarantor***" means Zachry Holdings, Inc.

1.2 The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement.

ARTICLE 2
RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 **Status of Contractor**. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an

independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative**.

A. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization who will be assigned to the Work. For clarity, the Parties agree and acknowledge that the Key Personnel shall include the Senior Supervisory Personnel in addition to those personnel identified in Attachment F. Owner and Contractor acknowledge and agree the continuity of Key Personnel on this Train 1 Project is a material requirement of this Agreement and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work. Key Personnel shall be devoted full-time to the Work for the applicable period of time specified in Attachment F (*provided that*, Owner acknowledges that a Key Person performing functions related to the Train 1 Project and Common Development Work may also be performing work under a similar role under the Train 2 EPC Agreement), and Key Personnel shall not be removed or reassigned without Owner's prior written approval. All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and the resumes of professional education and experience for a minimum of two (2) candidates of suitable qualifications and experience. Should Owner approve of the replacement of a Key Person, Contractor shall allow for an overlap of two (2) weeks during which both the Key Person to be replaced and the Owner-approved new Key Person shall work together full time. The additional cost of any replacement of such Key Personnel and overlap time shall be entirely at Contractor's expense. Owner has the right, but not the obligation, to require Contractor to remove or cause to be removed a Key Person who is not, in Owner's reasonable judgment, using GECP in the performance of the portion of the Work assigned to such Key Person. Unless the Parties otherwise agree in writing, the Persons identified as Key Persons under this Agreement that are dedicated to the management of Common Development Work shall also be Key Persons under the Train 2 EPC Agreement dedicated to the same Common Development Work.

B. ***Contractor Representative***. Contractor designates Chet Lloyd as the Contractor Representative. The Contractor Representative is a Key Person. The Contractor Representative under this Agreement and the Train 2 EPC Agreement shall be the same Person unless otherwise agreed by Owner in writing.

2.3 **Subcontractors and Sub-subcontractors**. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. Except as otherwise set forth in this Agreement, the provisions of Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the provisions of this Agreement. The provisions of any Subcontract or Sub-subcontract shall not relieve Contractor

of any obligations to perform the Work or of its responsibility for each Subcontractor and Sub-subcontractor. NO SUBCONTRACTOR OR SUB-SUBCONTRACTOR IS INTENDED TO BE OR SHALL BE DEEMED A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly used by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor in the performance of the Work. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner or Lender to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel that are performing Work at the Site are to be instructed by Contractor in the terms and requirements of Owner-approved safety and environmental protection policies and procedures for Work at the Site and shall be expected to comply with such policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Contract Price or Train 1 Project Schedule as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall (i) create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or (ii) obligate Owner to pay or cause the payment of any amounts to any Subcontractor or Sub-subcontractor. For purposes of sales and use taxes for the State of Texas, all Subcontracts and Sub-subcontracts will be separated contracts pursuant to Tex. Tax Code § 151.056(b) and 34 Tex. Admin. Code Rule § 3.291(a)(13). In addition, all Subcontract and Sub-subcontract documentation (including scope of work, cost and schedule-related information) shall be capable of being segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

2.4 **Subcontracts and Sub-subcontracts**.

A. ***Approved List***. Part I of Attachment G sets forth a list of Subcontractors and Sub-subcontractors that Contractor and Owner have agreed are approved Subcontractors and Sub-subcontractors for the performance of that portion of the Work specified in Part I of Attachment G. As further set forth in Attachment G, a Subcontractor or Sub-subcontractor that is listed in Part I shall be utilized for the applicable portion of the Work unless Owner otherwise agrees in writing. Part II of Attachment G sets forth portions of the Work whose Subcontractors and Sub-subcontractors may not otherwise meet the value thresholds to be Major Subcontractors or Major Sub-subcontractors but that the Parties nevertheless agree that such Subcontractors and Sub-subcontractors are Major Subcontractors and Major Sub-subcontractors for purposes of performing such Work scopes. Approval by Owner of any Subcontractors or Sub-subcontractors does not relieve Contractor of any responsibilities under this Agreement.

B. ***Additional Proposed Major Subcontractors and Major Sub-subcontractors***. In the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor not listed on Attachment G that would qualify as a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished

to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids (with pricing redacted) of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fourteen (14) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor not listed on Attachment G. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor not listed on Attachment G for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4B expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fourteen (14) Days shall be deemed to be a rejection of such Major Subcontractor or Major Sub-subcontractor.

C. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Sections 2.4A or 2.4B, Contractor shall, prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing.

D. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts (which price may be redacted from such copies) within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts (which price may be redacted from such copies). Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement or approval of or acquiescence in a breach hereunder.

E. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors used in the performance of the Work, Contractor shall:

1. Include in each Major Subcontract and each Major Sub-subcontract a provision that each such Major Subcontract and Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2. Use reasonable commercial efforts to include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner

under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract; *provided, however*, as a minimum (and without relieving Contractor of its responsibility for each Major Subcontractor and Major Sub-subcontractor), Contractor must include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to substantially comply with and perform for the benefit of Owner the following requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract:

(i) For all Major Subcontractors and Major Sub-subcontractors: Article 10 and Article 19; Sections 2.5C, 3.3, 3.8, 3.13, 3.16, 3.18, 8.1, 16.2, 16.3, 17.1B, 21.15, 21.17 and 21.18; for Interim Lien and Claim Waivers in Section 7.3D and Final Lien and Claim Waivers in Section 7.4 (except Interim and Final Lien and Claim Waivers are not required from Sub-subcontractors who are Equipment suppliers or manufacturers that do not perform Work at the Site); and in substance the same as Section 2.3, including that there is no contractual relationship between Owner and any Major Subcontractor or Major Sub-subcontractor and that Owner has no obligation to pay or cause to pay the payment to any Major Subcontractor or Major Sub-subcontractor.

(ii) For all Major Subcontractors and Major Sub-subcontractors performing Work at the Site: Article 17 (except for Section 17.1B) and Sections 3.6, 3.7, 3.10, 3.17, 3.24, 3.25, 3.27, 9.1, and Attachment O, in addition to the requirements and obligations set forth in Section 2.4E.2(i).

F. ***Owner's Right to Terminate***. Owner shall be entitled to require Contractor to immediately terminate any Subcontract or Sub-subcontract if any Subcontractor or Sub-subcontractor (as applicable) fails to comply in any material respect with the policies and procedures set forth in Attachment J, persists in any conduct which is prejudicial to safety, health or the protection of the environment, or fails to perform the Work in accordance with the safety and health rules and standards of Applicable Law. Contractor agrees that it shall have no right, and hereby waives any such right, to claim any increase to the Contract Price or an adjustment to the Train 1 Project Schedule arising out of or due to any such termination.

2.5 **Contractor Acknowledgements**.

A. ***The Agreement***. Prior to the execution of this Agreement, Contractor performed engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work and Design Basis listed in Attachment A, which was performed pursuant to the FEED Agreement. Owner has relied upon

Contractor's expertise in developing and providing such information. Except with respect to Rely Upon Information identified in Attachment Z, Contractor hereby warrants and represents that such information and the attached Scope of Work and the Design Basis in Attachment A are accurate, adequate and complete for Contractor to engineer, procure, construct, pre-commission, commission, start-up and test a fully operational natural gas treatment, liquefaction, storage and terminal facility for the Contract Price, within the required times set forth in the Train 1 Project Schedule, and in accordance with all requirements of this Agreement, including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees, and that with respect to any information (if any) not so developed or provided by Contractor which is contained in or referenced in Attachment A, Contractor has examined all such information and has determined that it is accurate, adequate and complete. Accordingly, with the exception of Rely Upon Information set forth in Attachment Z, Contractor hereby agrees that it shall have no right to claim or seek an increase in the Contract Price or an adjustment to the Train 1 Project Schedule with respect to any incomplete, inaccurate or inadequate information or requirements that may be contained or referenced in Attachment A, and hereby waives and releases Owner from and against such claims. Owner makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any such information that is contained or referenced in Attachment A.

B. ***Conditions of the Site***.

1. In addition to Section 2.5A, Contractor further agrees and acknowledges that it has made all investigations and inspections that it deems necessary to perform the Work in accordance with the Train 1 Project Schedule, has conducted a review of all Site leases and easements that have been provided to Contractor by Owner, and is familiar with the climate, terrain and other difficulties that it may encounter in performing the Work in accordance with the Train 1 Project Schedule. Contractor has the experience, resources, qualifications and capabilities to perform the Work in accordance with the Train 1 Project Schedule. Except as provided for in Sections 2.5B.2, 2.5B.3 and 6.8A, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Contract Price or the Train 1 Project Schedule in respect of, any failure to timely perform the Work in accordance with the Train 1 Project Schedule as a result of any conditions at the Site or at any other location where the Work is performed, including: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions; (ii) climatic conditions, tides, and seasons (excluding Force Majeure events); (iii) availability of laborers, Subcontractors, Sub-subcontractors, equipment or any other items or supplies; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of equipment under the control of or provided by Contractor or its Subcontractors or Sub-subcontractors.

2. Contractor assumes all risks related to, and waives any right to claim an adjustment for, any and all subsurface conditions of whatever nature or condition, except as expressly provided in this Section 2.5B.2:

(i) *Piles.* The Contract Price and Train 1 Project Schedule are based on 20,192 total piles, having the composition, size and length shown in Section 1 of Attachment HH, supporting all portions of the Train 1 Expansion ("***Piles***"). In accordance with Section 2 of Attachment HH, Contractor shall conduct pile tests on an area by area basis to confirm the number, size, length and type of the Piles in accordance with Section 2 of Attachment HH. Based on the pile test report for an area, if the length or number of Piles in such area is different than that stated in this Section 2.5B.2(i) and Section 1 of Attachment HH, then a Change Order shall be executed adjusting the Contract Price and Train 1 Project Schedule as follows:

(a) If the Pile test report in an area shows that a change in length, size, type or number of Piles is necessary to achieve the load bearing capacity noted in Section 1 of Attachment HH, the Contract Price shall be respectively increased or decreased by Change Order as provided in Section 3 of Attachment HH. This adjustment process shall be performed on an area-by-area basis as further set forth in Attachment HH;

(b) After conducting all of the Pile tests for the Site, if the total number of Piles for the Train 1 Expansion is either (i) ten percent (10%) or more greater than 20,192 Piles or (ii) ten percent (10%) or more less than 20,192 Piles, as a result of the cumulative findings of the Pile test reports described in clause (a) above, the Train 1 Project Schedule shall be evaluated and extended if and to the extent permitted under Section 6.9 (in the case of clause (i)) or decreased (in the case of clause (ii)); and

(c) Except as provided in clauses (a) and (b) above, Contractor is not entitled to any other adjustments to the Contract Price, Train 1 Project Schedule or any other Changed Criteria arising out of or relating to the Piles.

(ii) *Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.*

(a) *Identified Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* Prior to the Effective Date, Contractor received from Owner or developed under the FEED Agreement documentation showing the location of any subsurface utilities, subsurface obstructions, caverns, seismic faults and subsurface archeological finds, as described in more detail in Attachment BB. After the Effective Date but prior to performance of construction of any Work near any such identified subsurface utilities, obstructions, caverns, seismic faults or archeological finds, Contractor shall, exercising GECP, verify all locations of such

identified subsurface utilities, obstructions, caverns, seismic faults and archeological finds, and Contractor shall be entitled to a Change Order adjusting the Contract Price and the Train 1 Project Schedule for any locations of Unforeseen Subsurface Conditions that are materially different than the information described in such documents and adversely affect Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, *provided that*, Contractor complies with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9. After the commencement of construction, Contractor waives all risks and waives any right to claim an adjustment in the Contract Price or Train 1 Project Schedule with respect to any additional costs or delay incurred by Contractor or any Subcontractor or Sub-subcontractor during the construction of the Train 1 Expansion in connection with any location of any subsurface utility, obstruction or archeological find inaccurately shown on such documents.

(b) *Unknown Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* If Contractor encounters an Unforeseen Subsurface Condition that adversely affects Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, Contractor shall be entitled to a Change Order adjusting the Contract Price and Train 1 Project Schedule, *provided that* Contractor complies with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses all reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9.

3. In accordance with this Agreement, Contractor is required to raise and/or stabilize the Site in accordance with Schedule A-1 using appropriate and adequate materials meeting the requirements of this Agreement and GECP. The Contract Price is based on the fill requirements specified in Section 1 of Attachment II. No later than forty-five (45) Days after completion of soil stabilization and Site raising by Contractor, Contractor shall notify Owner in writing whether any adjustment to the fill material requirements specified in Section 1 of Attachment II are necessary based upon the process set forth in Attachment II and the actual amount of fill materials and soil

stabilization materials utilized to raise and stabilize the Site. Such notification shall include a proposed Change Order and all information supporting such proposed Change Order, including the soil test reports of the stabilized soil and as-built cut and fill drawings for the Site. Any adjustments in the Contract Price shall be determined in accordance with Section 2 of Attachment II. Except for any adjustment in the Contract Price as provided in Attachment II, Contractor is not entitled to any other adjustments to the Contract Price, Train 1 Project Schedule or any other Changed Criteria arising out of or relating to any fill requirements or soil stabilization requirements for the Train 1 Project.

C. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards and represents that it can perform the Work at the Contract Price and within the Train 1 Project Schedule in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, (i) Contractor shall be entitled to a Change Order for Changes in Law (including Applicable Codes and Standards incorporated into Applicable Law) to the extent allowed under Section 6.2A.8, and (ii) the Parties shall follow the procedure in Section 2.5C.1 with respect to changes that occur after the Effective Date in Applicable Codes and Standards that are not incorporated into Applicable Law. Except for any Changes in Law for which Contractor is entitled to a Change Order under Section 6.2A.8, Contractor hereby waives any right to make any claim for adjustment of the Contract Price or the Train 1 Project Schedule in relation to any Changes in Law or change to any Applicable Codes and Standards.

1. If a change occurs in any Applicable Code and Standard after the Effective Date and such Applicable Code and Standard is not incorporated into any Applicable Law, Contractor shall give Owner written notice of such change in accordance with the requirements of Section 6.6, which such notice shall include a reasonably detailed description of the impact of the change (if any) on the Train 1 Project or any Changed Criteria. Within ten (10) Days after Owner's receipt of such notice, the Parties shall meet to discuss the implications (if any) of such change in Applicable Code and Standard and shall agree upon an appropriate course of action.

ARTICLE 3
CONTRACTOR'S RESPONSIBILITIES

3.1 **Scope of Work**.

A. ***Generally***. Subject to Section 3.1B, the Work shall be performed on a turnkey basis and shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 1 Expansion, all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, workmanship,

inspection, manufacture, fabrication, installation, design, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 1 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees. Contractor shall be required to integrate and use Owner's operations and maintenance personnel (which are provided by Owner pursuant to Section 4.4) in Contractor's pre-commissioning, commissioning, testing and start-up efforts. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, with the explicit understanding that the Expansion Facility will operate as an LNG liquefaction, storage and export terminal facility meeting all requirements and specifications of this Agreement, and that the Existing Facility will continue to operate as an LNG receiving, storage and regasification facility. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required and necessary to complete the Train 1 Expansion in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

B. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits that Owner has agreed to provide under Section 4.2; (ii) those requirements set forth under Sections 4.3, 4.4, 4.5 and 4.8; (iii) legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point pursuant to Section 4.7; and (iv) LNG Tankers for start-up, commissioning and Performance Tests in accordance with Sections 11.1B and 11.1C.

3.2 **Specific Obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

A. procure, supply, transport, handle, properly store, assemble, erect and install all Equipment;

B. provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

C. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4;

D. perform shop and other inspections of the work of Subcontractors and Sub-subcontractors to ensure that such work meets all of the requirements of this Agreement;

E. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

F. pay all Contractor's Taxes incurred in connection with the Work in a timely fashion;

G. ensure that the Work is performed in accordance with the Train 1 Project Schedule;

H. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Train 1 Expansion, while supervising operations and maintenance personnel provided by Owner;

I. obtain all Permits required per Section 3.12;

J. provide reasonable, prompt assistance, information and documentation required or requested by Owner to enable Owner to obtain or modify the Permits listed in Attachment Q;

K. provide training and certification for Owner's operating and maintenance personnel per Section 3.5;

L. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

M. cooperate with and respond promptly to inquiries from Owner;

N. provide information and any other assistance reasonably requested by Owner with respect to Owner's contracting and interfacing with CenterPoint, including providing, on a timely basis, all information needed by CenterPoint regarding electrical demands of the Expansion Facility and specifying to CenterPoint all requirements of Contractor as well as review of any information provided by CenterPoint (including interface conditions) and attendance at meetings between Owner and CenterPoint;

O. be responsible for connecting the Train 1 Expansion (including designing, engineering and constructing the interconnections) to the permanent utilities to the extent set forth in Attachment A;

P. interface and cooperate with Owner's other contractors (which activities shall be coordinated by Owner), and provide necessary Drawings, Specifications and other information for interconnections to the Train 1 Expansion, including interconnections for the natural gas feed pipeline for the natural gas pretreatment facility, the natural gas liquids pipeline and the natural gas vapor return pipeline;

Q. supply all initial permanent (*i.e.*, non-startup) fills; and

R. perform, or cause to be performed, all design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 **Design and Engineering Work**.

A. ***General***. Contractor shall, as part of the Work, perform, or cause to be performed, all design and engineering Work in accordance with this Agreement and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees.

B. ***Drawings and Specifications***. Upon receipt of a limited notice to proceed ("***Limited Notice to Proceed***" or "***LNTP***") or the full notice to proceed ("***Notice to Proceed***" or "***NTP***") issued in accordance with Section 5.2, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall conform and comply with the requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

C. ***Review Process***.

1. *Over-the-Shoulder Review*. During the development of the Drawings and Specifications, Contractor shall provide Owner with the opportunity to perform "over-the-shoulder" reviews of the design and engineering in progress. Such reviews may be conducted at Contractor's office located in Houston, Texas, at any of its Subcontractor's or Sub-subcontractor's offices, or remotely by electronic internet access. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents determined by Owner.

2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment B.

3. *Review Periods*. Owner shall have up to ten (10) Business Days from its receipt of Drawings and Specifications submitted in accordance with Section 3.3C.2 to issue written comments, proposed changes and/or written approvals or disapprovals of the submission of such Drawings and Specifications to Contractor.

4. *No Owner Response*. If Owner does not issue any comments, proposed changes or written approvals or disapprovals within such time periods, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

5. *Disapproval by Owner*. In the event that Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of

comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in this Section 3.3C; *provided that* Contractor shall not be entitled to any extensions of time to the Train 1 Project Schedule, an adjustment to the Contract Price or any adjustment to any other Changed Criteria; *provided further, however*, to the extent Owner's disapproval of the Drawings or Specifications is due to one or more material changes by Owner to any such Drawings or Specifications, and not the result of such Drawings or Specifications non-compliance with the requirements of this Agreement, Contractor shall be entitled to a Change Order to the extent such Owner-required change adversely affects the Train 1 Project Schedule and/or the Contract Price and Contractor complies with and meets the requirements under Article 6.

6. *Approval or Non-Response by Owner*. Upon Owner's written approval of the Drawings and Specifications, or in the event that Owner does not issue any comments, proposed changes or written approval or disapprovals of such Drawings and Specifications pursuant to Section 3.3C.4, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work; *provided that* Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control. Due to the limited time for Owner's review of Drawings and Specifications, Contractor's or its Subcontractors' or Sub-subcontractors' expertise in the Work and Owner's reliance on Contractor to prepare accurate and complete Drawings and Specifications, Contractor recognizes and agrees that Owner is not required or expected to make detailed reviews of Drawings and Specifications, but instead Owner's review of Drawings and Specifications may be of only a general, cursory nature. Accordingly, any review or approval given by Owner under this Agreement, or any non-response under Section 3.3C.4, with respect to any Drawings or Specifications shall not in any way be, or deemed to be, an approval of any Work, Drawings or Specifications not meeting the requirements of this Agreement, as Contractor has the sole responsibility for performing the Work in accordance with this Agreement.

D. ***Design Licenses***. Contractor shall perform, or cause to be performed, all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

E. ***CAD Drawings***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings and Specifications prepared by

Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable AutoCAD.dwg (Version 10) or Intergraph 3D model in native format. Contractor shall use best efforts to also provide Drawings, including Record As-Built Drawings and Specifications, in other formats requested by Owner.

F. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep a redlined, marked, up-to-date set of As-Built Drawings and Specifications on the Site as required under Attachment B. Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment B, which shall include delivery of final as-built drawing files in fully operable and editable AutoCAD.dwg (Version 10) format or other format as agreed by Owner for Record As-Built Drawings (the "***Record As-Built Delivery Requirement***"). The Record As-Built Delivery Requirement shall include Record As-Built Drawings and Specifications for the entire Train 1 Expansion (including all Common Systems and Existing Facility Modifications), except the Expansion Facility Dock, which does not achieve Substantial Completion with the Train 1 Expansion pursuant to Section 11.2A. The Record As-Built Delivery Requirement shall be achieved by Contractor no later than ninety (90) Days after Substantial Completion of the Train 1 Expansion (the "***Guaranteed Record As-Built Delivery Date***").

G. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment B within and in accordance with the requirements and timing set forth in Attachment B.

3.4 **Spare Parts**.

A. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Train 1 Expansion to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving RLFC for the Train 1 Expansion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Contract Price, including the cost to procure such spare parts and the actual purchase price of such spare parts.

B. ***Capital Spare Parts***. The cost associated with all Work related to procuring the Capital Spare Parts identified in Attachment W (including the purchase price for such Capital Spare Parts) is included within the Contract Price. The Capital Spare Parts shall be delivered to the Site as a condition of Substantial Completion. For purposes of clarity, Capital Spare Parts may be utilized by Contractor prior to achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use.

C. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion (but only to the extent not taken into consideration by the Capital Spare Parts listed in Attachment W), Contractor shall deliver to Owner for Owner's written approval a detailed list of the manufacturer and Contractor-recommended spare

parts for each applicable item of Equipment necessary for operating such Equipment (including components and systems of such Equipment) for two (2) years. Such list shall be provided to Owner for each item of Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract or Sub-subcontract for such Equipment. Owner shall have ten (10) Business Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract or Sub-subcontract. The cost associated with all Work related to the two (2) years' operating spare parts is included in the Contract Price, except for the actual purchase price and delivery costs of such spare parts. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2A.6 to increase the Contract Price for the actual purchase price and delivery costs of such requested operating spare parts. For purposes of clarity, operating spare parts may be utilized by Contractor after achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use (including replacement of the used operating spare part at Contractor's expense).

3.5 **Training Program in General**. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion (but not to exceed the number of Persons listed in Attachment V) shall be given training designed and administered by Contractor at its expense, which shall be based on the program requirements contained in Attachment V and shall cover the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter reasonably required by Owner. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Expansion Facility during commissioning, testing and start-up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's or Sub-subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment V. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate training of Owner personnel hired in the future. Owner agrees that within forty-eight (48) hours after receipt of written notice from Contractor, it shall remove any employee or agent of Owner in the training program who, in Contractor's reasonable opinion, is unsafe, incompetent, careless, incapable of being trained, creates an unsafe or hostile work environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL HAVE NO LIABILITY AND OWNER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM OWNER TERMINATING THE EMPLOYMENT OF OR

REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY CONTRACTOR TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Owner shall replace any such employee at its sole cost and expense.

3.6 **Environmental Regulations and Environmental Compliance**. Without limitation of Section 3.1, Contractor is responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment and Applicable Law and in compliance with the policies and procedures set forth in Attachment J. Contractor shall, at its sole cost and expense, dispose of all non-hazardous wastes and Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site (including any laydown areas), or generate from Hazardous Materials brought onto the Site during performance of the Work, which shall be disposed at off-Site disposal facilities approved by Owner and permitted to receive such wastes and Hazardous Materials. Contractor shall report to Owner, as soon as reasonably possible after having knowledge thereof and in no event later than one (1) Day after such occurrence, any violation of the foregoing. In addition to Section 17.1C, Contractor shall, at its sole cost and expense, remediate the release of any Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site, or generate from Hazardous Materials brought onto the Site, in violation of this Section 3.6.

3.7 **Contractor's Tools and Equipment**. Contractor shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such tools, machinery, structures, scaffolding or equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against Owner, Lender and any Owner Affiliates.

3.8 **Employment of Personnel**.

A. Contractor shall not employ, and shall require that any Subcontractor or Sub-subcontractor not employ, in connection with its performance under this Agreement anyone not skilled or qualified to perform the work assigned to such Person. Contractor agrees to promptly remove or reassign (or to require any Subcontractor or Sub-subcontractor to remove or reassign) from its services in connection with the Work any Person performing Work at the Site who does not meet the foregoing requirements. In addition, Contractor agrees that within forty-eight (48) hours after receipt of written notice from Owner, it shall remove from the Work any employee or agent of Contractor or of Contractor's Subcontractors or Sub-subcontractors who, in Owner's reasonable opinion, is unsafe, incompetent, careless, creates an unsafe or hostile work environment, persists in any conduct which is prejudicial to safety, health or the protection of the environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work.

NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Contractor shall replace any such employee at its sole cost and expense.

B. Contractor is responsible for maintaining labor relations in such manner that there is harmony among the employees of Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site. Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site shall conduct their labor relations in accordance with the recognized prevailing local area practices. Contractor shall inform Owner 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. Contractor further agrees to inform Owner, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations. In the event of any labor dispute which threatens to adversely affect the progress of the Work, Owner reserves the right to restrict additional hiring of workers and to suspend or terminate the Work as set forth in Sections 16.3 and 16.2, respectively.

C. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature (unless prohibited by Applicable Law), knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of Owner is determined to be a potential weapon; (ii) alcoholic beverages of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) any animal; (v) illegal or Owner-prohibited drugs of any nature; (vi) any drugs (whether prescription or non-prescription) which impair physical or mental faculties; or (vii) any prescription drugs without a valid prescription.

In connection with the enforcement of this Section 3.8C, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contactor shall provide Owner with copies of such drug screening tests (subject to any restrictions imposed by Applicable Law). For Contractor, Subcontractor, and Sub-subcontractor employees and agents working in D.O.T-regulated functions, the drug screening policies for such employees and agents shall meet the D.O.T. approved drug and alcohol program requirements. Further, for Contractor, Subcontractor and Sub-subcontractor employees and agents performing "covered functions" (as defined by 49 CFR Part 199), the drug screening policies for such employees and agents shall be compliant with 49 CFR Part 199. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8C, and shall promptly remove from the Work any employee or agent of

Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8C. The provisions of Section 3.8A with regard to liability of any of the Owner Indemnified Parties and Contractor's release, indemnification, defense and hold harmless obligations shall apply to the removal of any such Person under this Section 3.8C.

3.9 **Clean-up**. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its Subcontractors or Sub-subcontractors. Without limitation of the foregoing or limiting Contractor's obligations, Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice. As soon as practicable after the completion of all Punchlist items, Contractor shall remove, at its own cost, all of its equipment, materials and other items not constituting (or intended to constitute) part of the Facility and remove all waste material and rubbish from the Site and restore the Site in accordance with all Permits and this Agreement; *provided, however*, for purposes of clarity, the foregoing removal and restoration obligations at the Site shall not extend to equipment, materials and other items being utilized by Contractor for the construction of the Train 2 Expansion. In the event of Contractor's failure to comply with any of the foregoing, Owner, having given Contractor five (5) Days prior notice, may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole option) all documented, direct costs associated with such removal and/or restoration, including costs associated with permitting, transportation and disposal at an authorized location.

3.10 **Safety and Security**. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval thirty (30) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Train 1 Expansion, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner after Work has commenced at the Site. Contractor further agrees to provide or cause to be provided necessary training and safety equipment to its employees, Subcontractors and Sub-subcontractors to ensure their compliance with the foregoing safety and health rules and standards and enforce the use of such training and equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law or by Owner and shall furnish Owner a Monthly summary of hours worked, injuries and labor hours lost due to injuries. Should Owner at any time observe Contractor, or any of its Subcontractors or Sub-subcontractors, performing the Work in an unsafe manner, or in a manner that may, if continued, become unsafe, then Owner shall have the right (but not the obligation) to require Contractor to stop the Work until such time as the manner of performing

the Work has been rendered safe to the satisfaction of Owner; *provided, however*, that at no time shall Contractor be entitled to an adjustment of the Contract Price or Train 1 Project Schedule based on such work stoppage. Contractor shall be responsible for the security, fencing, guarding and lighting of the Train 1 Expansion and the Train 1 Expansion Site (except for those portions of the Train 1 Expansion Site falling within the security perimeter of the Existing Facility) until the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 1 Expansion. Upon the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 1 Expansion, the Train 1 Expansion Site shall be incorporated into the security perimeter of the Existing Facility maintained by Owner (itself or through its Affiliates) and thereafter access to, and Work therein, will be subject to Owner's (or its Affiliates') site security requirements and other obligations under this Agreement with respect to performing Work in the Existing Facility Site as further set forth in Attachment V and Section 3.10B below; *provided that*, Contractor shall be able to continue to utilize its permit-to-work system and safety requirements meeting the requirements of this Agreement until Substantial Completion of the Train 1 Expansion. Nothing in this Section 3.10 shall affect Contractor's status as an independent contractor.

A. All Work performed hereunder shall comply with the minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of facilities contained in Title 49, Code of Federal Regulations (C.F.R.), Parts 192 (to the extent applicable) and 193 and in Title 33, C.F.R. Part 127. Contractor shall comply with requirements of the Operator Qualification Program that are outlined in Sub-Part H of 49 C.F.R. Part 193 and Sub-Part G of C.F.R. Part 195, where applicable. The term "pipeline facilities" shall include new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas, including LNG, or treatment of gas during the course of transportation. The term "transportation of gas" shall include the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

B. Any Work performed on the Existing Facility Site shall be conducted in accordance with the Existing Facility Site's safety and security rules and procedures. Each Contractor, Subcontractor or Sub-subcontractor personnel or representative needing access to the Existing Facility Site shall also have valid Transportation Worker Identification Credentials (TWIC card). In addition, each such personnel or representative shall have a valid TWIC card when, and to the extent, all or portions of the Train 1 Expansion Site become regulated by the Transportation Security Administration, which, in any event, shall be no later than when such portion of the Train 1 Expansion Site is incorporated into the Existing Facility's security perimeter pursuant to Section 3.10. Contractor acknowledges that it has fully investigated the Existing Facility Site's access requirements and procedures, as well as its site safety and security rules and procedures, and has taken such requirements, rules and procedures into account in planning the Work to be performed in accordance with the Train 1 Project Schedule. As such, Contractor shall not be entitled to a Change Order to adjust the Contract Price or Train 1 Project Schedule as a result of its personnel's (or that of its Subcontractors or Sub-subcontractors) compliance with such access, safety and security requirements, rules and procedures.

3.11 **Emergencies**. In the event of any emergency endangering life or property in any way relating to the Work, the Facility or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be under no obligation to, take reasonable action as required to address such emergency. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability. Contractor shall reimburse Owner for the performance of any work or furnishing of any equipment or other items in connection with any emergency in an amount equal to the reasonable costs incurred by Owner in such performance of work or furnishing of equipment or other items.

3.12 **Approvals, Certificates, Permits and Licenses**. Contractor shall obtain the Permits listed in Attachment P as well as (i) those Permits for the Train 1 Project that are required to be maintained in Contractor's (or its Subcontractor's or Sub-subcontractor's) name and (ii) non-project specific Permits necessary for Contractor to do business as a contractor in the State of Texas performing work of the nature contemplated herein. If requested by Owner, Contractor shall provide to Owner within five (5) Days after such request copies of all applications made for any such Permits and all material correspondence received or sent in respect of such applications. Contractor shall provide Owner with copies of such Permits as soon as they are obtained. Contractor shall provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained by Owner in Attachment Q.

3.13 **Books, Records and Audits**.

A. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with generally accepted accounting principles applicable in the United States 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. To the extent practicable, Contractor shall maintain such Books and Records in a manner that would allow them to be segregated into Books and Records relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work; *provided that*, notwithstanding the foregoing, Books and Records relating to all Work performed under any Change Order shall be segregated by Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

B. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records with respect to (i) any Drawings, Specifications or other technical documents required under this Agreement to be prepared, delivered or maintained by Contractor or any of its Subcontractors; (ii) any documents relating to

safety, security, quality or Permits relating to this Agreement; (iii) any amounts billed under unilateral Change Orders, or under cost reimbursable or unit price Change Orders; and (iv) any Provisional Sum Scope Items and any Provisional Sum amounts as well as the amounts making up the Fixed Sum Prices and the scopes of Work related thereto; *provided*, *however*, that such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with the internal composition of any compensation that is fixed in amount hereunder (including the composition of any markups, unit rates or fixed percentages or multipliers specified in this Agreement). When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records during normal business hours, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Contractor shall bear, at its own cost and expense, all costs incurred by it in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions substantially similar to this Section 3.13 in all Major Subcontracts. The restrictions in this Section 3.13B to the audit rights of Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law, in discovery in any arbitration or litigation arising out of Article 18 or in any litigation or arbitration against Guarantor.

C. Contractor shall not, and shall provide that its Subcontractors, Sub-subcontractors and agents or employees of any of them shall not, without Owner's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee, officer or consultant of Owner or its Affiliates, (ii) favor employees, officers or consultants of same with gifts or entertainment of any significant cost or value, or (iii) enter into any business arrangements with employees, officers or consultants of same.

3.14 **Tax Accounting**. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and Contractor's prices to Owner for any Equipment installed on or ordered for the Train 1 Expansion and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of Owner's tax returns or other tax documentation or the determination of Equipment that constitutes Tax Exempt Equipment listed in Attachment FF.

A. Contractor acknowledges that Owner is pursuing ad valorem tax abatements through the Texas Commission on Environmental Quality, and upon request Contractor shall provide documentation required or requested by the Texas Commission on Environmental Quality in order for Owner to perfect such abatement related to the cost of Equipment, including Equipment cost, cost of fabrication and design specifications, installation labor costs and overhead and other indirect costs. Documentation may consist of asset name or equipment reference number, a description of the asset, invoice copies showing Subcontractor name, invoice number, delivery date, and purchase amount. If reasonably requested by Owner, Contractor agrees to offer similar assistance to Owner toward any other federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF.

B. In the event that Contractor fails to provide the documentation described in Sections 3.14 and 3.14A, Contractor will be responsible to Owner for any resulting reduction in the tax benefit amount that Owner would otherwise be entitled to receive under the relevant federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF. Contractor shall be liable for and shall pay to Owner the amount of such reduction to the extent Owner was otherwise ready and capable of fulfilling all of Owner's compliance obligations and requirements with the applicable taxing entity in a timely fashion.

3.15 **Temporary Utilities, Roads, Facilities and Storage**. Contractor shall provide and pay for all utilities (*e.g.*, electricity (except as provided by Owner pursuant to Section 4.8B), water, communication, cable, telephone, waste and sewer), including all connections and substations, necessary for the performance of the Work, including installation, Permit and usage costs. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. Contractor shall provide Owner with office space in accordance with the requirements set forth in Attachment A at the time of Contractor's mobilization at the Site to accommodate Owner's Site representatives and support staff. Contractor shall provide Owner with all office space (as required by Attachment A), construction trailers, utilities, security, telephones, furnishings, and other temporary facilities required for their oversight of the Work, as set forth in more detail in Attachment A. All Equipment and other items comprising part of the Work stored at a location other than on the Site shall be segregated from other goods, and shall be clearly marked as "Property of FLIQ Common Facilities, LLC."

3.16 **Subordination of Liens**. In consideration of ten and no/100 U.S. Dollars (U.S.$10) incorporated into the Contract Price and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor, Contractor hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender or any lender of Owner's Affiliates, whether such lien in favor of such Persons is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender or any lender of Owner's Affiliates, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner's property and the Site are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 **Hazardous Materials**. Contractor shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Contractor may bring onto the Expansion Facility Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and the requirements specified in Attachment J, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials; *provided further, however*, if

Contractor needs to bring any Hazardous Materials onto the Existing Facility Site for the performance of the Work, Contractor shall receive Owner's prior written approval (such approval not to be unreasonably withheld) before bringing such Hazardous Materials onto the Existing Facility Site, and Contractor shall comply with Applicable Law, Applicable Codes and Standards, the requirements specified in Attachment J, and any Existing Facility Site-specific safety or security rules or procedures regarding such Hazardous Materials, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials. If Contractor or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Site, and Contractor or any Subcontractor or Sub-subcontractor knows or reasonably suspects that such material is Hazardous Material, Contractor and its Subcontractors and Sub-subcontractors shall immediately stop Work in the affected area and notify Owner. If under such circumstances Contractor or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify Owner, Contractor shall be responsible and liable to Owner in accordance with Section 17.1C for all damages, costs, losses and expenses to the extent relating to such failure.

3.18 **Quality Assurance**.

A. No later than sixty (60) Days after the date Owner issues NTP, Contractor shall submit to Owner for its review and written approval, an Expansion Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's Quality Management System and Subcontractor source inspection plan as required by Attachment EE. No later than ninety (90) Days after the date Owner issues NTP, Contractor shall submit to Owner for its written approval, detailed construction inspection and test plans and supporting construction procedures as required by Attachment EE. Prior to the commencement of the Work, detailed quality assurance and quality control procedures and plans applicable to the Work shall be issued to Owner in accordance with Attachment EE. Owner's review and approval of Contractor's quality plan, Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this Agreement. As part of the quality plan, the Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans, Contractor agrees that it shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including the Lender independent engineer's) review a copy of all such inspections.

B. Before proceeding with the Work, Contractor shall furnish satisfactory evidence as to the kind, quality, and quantity of all Equipment. Without prior written approval by Owner which specifically waives the requirements of this Agreement, Contractor shall not use any Equipment other than as specified in this Agreement. If Contractor wishes to modify the requirements contained herein, then it shall make written application to Owner for Owner's approval, in Owner's sole discretion, prior to performing any such Work. Such application shall (i) identify the requirements being modified, (ii) certify that the quality of the proposed substitute is equal to or better than that currently specified, and (iii) certify that the substitute is suited to the same use and capable of performing the same function as that specified. If the preceding requirements

are not followed, then any substitution shall constitute a Contractor Default. All Equipment shall be fabricated, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions of the applicable Subcontractor or Sub-subcontractor.

3.19 **Reports and Meetings**.

A. ***Reports***. Contractor shall provide Owner with an electronic copy of progress reports and such other information as reasonably requested by Owner, including the following:

1. minutes for all status and other Train 1 Expansion-related meetings within five (5) Business Days following such meeting;

2. safety or environmental incident reports within three (3) Business Days after the occurrence of any such incident (including "near miss" incidents where no individual was injured or property was damaged) relating to the Work, except for any safety or environmental incident involving a significant non-scheduled event such as LNG or natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; *provided, however,* notification shall be provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work;

3. weekly (or such duration as otherwise agreed by Owner in writing) progress reports for the Work ("***Weekly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X, which shall be provided one (1) Day prior to the weekly progress meeting and shall cover all activities up to the end of the previous week; and

4. Monthly progress reports for the Work ("***Monthly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X. Contractor shall provide the Monthly Progress Report no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall arrange for the electronic distribution of the Monthly Progress Report as Owner may reasonably request.

The Parties acknowledge that the Weekly Progress Reports and Monthly Progress Reports provided in accordance with this Section 3.19A shall include information for both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be reported separately in accordance with Attachment X).

B. ***Meetings***.

1. A weekly progress meeting shall occur every week at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior week. The meetings shall be attended by the Owner Representative, the Contractor Representative, the Owner planning and scheduling representative, the Contractor planning and scheduling representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

2. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior Month and to review the Monthly Progress Report for that Month with Owner. The Monthly progress meeting shall be attended by the Owner Representative, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

3. The Parties acknowledge that the weekly and monthly progress meetings held in accordance with this Section 3.19B shall include information related to both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be discussed separately in accordance with Attachment X).

3.20 **Payment**. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.21 **Commercial Activities**. Neither Contractor 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 Site or any other lands owned or controlled by Owner; *provided, however*, lunch wagons and vending machines may be permitted upon prior written approval by Owner.

3.22 **Title to Materials Found**. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by Owner. Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 **Survey Control Points and Layout**. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to Section 4.7. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control points

provided by Owner, such control points shall be replaced by Contractor at Contractor's own expense and Contractor shall be liable to Owner for all other damages, costs, losses and expenses arising out of such relocation or destruction.

3.24 **Cooperation with Others**.

A. Subject to the provisions of this Agreement, including Section 4.3, Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. As such, but subject to the provisions of this Agreement (including Section 4.3), Owner reserves the right to require Contractor 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, *provided that*, but subject to Sections 21.22 and 3.24B, if Owner's requirement to reschedule the Work interferes with Contractor's performance of the Work, Contractor shall be entitled to a Change Order to the extent allowed under Section 6.9.

B. Contractor understands that Owner may choose to expand the Expansion Facility (beyond the current Scope of Work and the Train 2 EPC Agreement) under one or more separate agreements, including adding additional natural gas pretreatment and liquefaction units. Such other agreements may or may not involve Contractor and may be performed during the course of the completion of the Work covered under this Agreement. In the event Contractor is not participating in such separate agreement(s), Contractor agrees to cooperate with Owner's other contractor(s) so as not to materially interfere with such other contractor, and Owner agrees to require its other contractor to cooperate with Contractor so as not to materially interfere with Contractor. In the event Contractor does participate in any or all such separate agreements, Contractor acknowledges that any such work performed by Contractor shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 1 Project Schedule or any other Changed Criteria.

3.25 **Scheduled and Unscheduled Activities Involving Existing Facility**.

A. ***Scheduled Activities***. Listed in Attachment CC is the Work (i) that is being performed on the Existing Facility Site or (ii) which may interfere with the operation of the Existing Facility (including any Existing Facility Modifications which have been Handed Over pursuant to Section 11.2B). No later than fourteen (14) Days prior to performing such Work, Contractor shall provide Owner with a written plan listing the Work to be performed and proposing in detail how Contractor intends that such Work will be performed to minimize, to the greatest extent reasonably possible, interference with the operation of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B). The plan proposed by Contractor shall be the least disruptive to operations of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B), unless such plan is disproportionately expensive when compared to the impact on such operations. Prior to the execution of such Work, Owner and Contractor shall mutually agree upon a proposed plan for Contractor to execute such Work.

B. ***Unscheduled Activities***. It is the Parties' intent that, except for the activities listed in Attachment CC, the performance of the Work and Contractor's other obligations under this Agreement will not be performed on the Existing Facility Site or interfere with the operation of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B). During the performance of the Work, should a situation arise that requires additional Work to be performed on the Existing Facility Site, or which Contractor reasonably believes has the potential of interfering with the operation of the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2B), Contractor shall, except in an emergency endangering property or any Persons, give Owner written notice as soon as possible but no later than seven (7) Days' prior to the time that Contractor plans to perform such Work, detailing a plan that meets the requirements of Section 3.25A. Emergency actions are governed by Section 3.11. Prior to performing such Work, Owner and Contractor shall mutually agree on a proposed plan for Contractor to execute such Work. Notwithstanding Owner's agreement to the schedule and the plan for the performance of such Work, Owner may, in its sole discretion, subsequently prohibit the performance of such Work on such scheduled date, and Contractor shall work with Owner to develop a new plan and date for performing such Work in accordance with this Section 3.25B, and in such case Contractor shall be entitled to a Change Order to the extent permitted under Section 6.2A.1.

3.26 **Responsibility for Property**. Contractor shall carry out the Work so as not to interfere unnecessarily or improperly with, or damage, any access to, use or occupation of, public or private roads and footpaths or properties whether in the possession of Owner or of any other Person. Contractor shall liaise with, and ascertain the requirements of, all Governmental Instrumentalities in relation to vehicular access to and egress from the Site and shall comply with those requirements. Contractor shall so organize the Work as to minimize, and if required by any Governmental Instrumentalities having jurisdiction over such roads or footpaths, avoid vehicular travel during peak travel time on public roads, such as (but not limited to) school start and finish times. Contractor shall prevent damage to any highway or bridge by any traffic of Contractor or any Subcontractor or Sub-subcontractor and in particular, but without limitation, shall select routes, obtain all permits and permissions from relevant Governmental Instrumentalities, choose and use vehicles, and restrict and distribute loads so that any traffic interference which may arise from the moving of equipment and materials to and from the Site shall be limited as far as reasonably possible and so that no damage will be caused to highways and bridges. Contractor shall be deemed to have satisfied itself as to and shall be fully responsible for the routing for delivery of heavy or large loads to the Site or other locations where Work is performed. Contractor shall be fully responsible for all damages, losses, costs and expenses arising out of damage to such third-party property and shall promptly restore at its own cost and expense such property to the condition it was in before such damage. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site. Where the nature of the Work is such as to require the use by Contractor of waterborne transport, Contractor shall avoid, or minimize to the extent possible, any interference by Contractor with the access by and use of the common harbor, waterways and jetty by other Persons.

3.27 **Explosives**. Explosives shall be transported to the Expansion Facility Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives. Residual surplus explosives shall be promptly removed from the Expansion Facility Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.28 **Nondiscrimination**. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, national origin, religion, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.28.

3.29 **Used or Salvaged Materials**. If, after Substantial Completion and prior to Final Completion, Contractor has any Equipment (including commissioning spare parts) remaining that it intended for use with the Train 1 Expansion but did not incorporate therein, Contractor has the option to use such Equipment for the Train 2 Expansion as Contractor deems necessary. If, after substantial completion under the Train 2 EPC Agreement, any Equipment (including commissioning spare parts) procured by Contractor under this Agreement was not incorporated into the Expansion Facility, then Owner shall have the option to take such Equipment at no cost to Owner or require that Contractor haul off such Equipment at Contractor's own cost and expense. Notwithstanding the foregoing, all Capital Spare Parts and operating spare parts itemized on the Owner-approved spare parts list prepared pursuant to Section 3.4 shall be the property of FLIQ CF and shall only be utilized by Contractor upon Owner's prior written agreement in accordance with such Section 3.4.

3.30 **Supervision of Owner's Operation Personnel**. Until Substantial Completion (but subject to Owner rights under Section 11.8), Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Train 1 Expansion shall be under the control of and supervised by Contractor; *provided, however*, Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Expansion Facility Dock shall be under the control of, and supervised by, Contractor until substantial completion of the Expansion Facility Dock is achieved under the Train 2 EPC Agreement; *provided further, however*, notwithstanding the foregoing, all such operating and maintenance personnel shall remain employees or agents of Owner (or its Affiliates) and shall not be considered employees of Contractor for any reason. To the extent not set forth in Attachment V, Contractor shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, prepare for Owner's review a proposed plan regarding the utilization of Owner's (or its Affiliates') operation and maintenance personnel and Contractor's personnel during

pre-commissioning, commissioning, start-up and operations of the Train 1 Expansion and the conduct of Performance Tests and any other tests for the Train 1 Expansion. Each such plan shall be prepared so as to minimize, to the extent reasonably possible under the circumstances (considering the need to keep the Existing Facility operable), any impact on the operation of the Existing Facility and to take into account the Existing Facility operating and maintenance procedures, the number of operating and maintenance personnel available to Owner for participation in pre-commissioning, commissioning, start-up and Performance Testing, safety issues for the Train 1 Expansion and the type of activities to be performed. Such plan shall be mutually agreed-upon by the Parties no later than forty-five (45) Days after Owner's receipt of Contractor's proposed plan. Without in any way limiting Contractor's obligation to provide forces and labor during commissioning and Performance Testing, Contractor agrees that if any activity requires direct supervision by Contractor, such activity shall be performed by Contractor or a Subcontractor or Sub-subcontractor. Nothing in this Agreement, including this Section 3.30 or Section 3.2H, shall be interpreted to create a master-servant or principal-agent relationship between Contractor and any of Owner's (or Owner's Affiliates') operation or maintenance personnel.

3.31 **Use of Owner Equipment or Facilities**. Where Contractor requests from Owner and Owner agrees in writing to make available to Contractor certain construction equipment (*e.g.*, cranes, mules, tools, etc.) belonging to Owner for the performance of the Work, the following shall apply:

A. Owner-provided construction equipment shall be charged to Contractor at rental rates to be agreed between them;

B. Owner shall furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by Contractor during the rental period;

C. Contractor shall assure itself of the condition of such construction equipment and assume all risks and responsibilities during its use, it being understood by the Parties that any use of Owner's construction equipment is strictly on an "AS IS" basis and OWNER HEREBY DISCLAIMS, AND CONTRACTOR HEREBY WAIVES, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH CONSTRUCTION EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, CONDITION, OR FITNESS FOR ANY PARTICULAR PURPOSES OR USE;

D. To the fullest extent permitted by Applicable Law, Contractor shall, notwithstanding anything to the contrary in Article 17, release, defend, indemnify and hold harmless Owner Indemnified Parties from and against any and all claims, demands and liabilities directly or indirectly arising from the use of such construction equipment;

E. Owner and Contractor shall jointly inspect such Owner equipment or facilities before their use and upon their return. Any damage or destruction of such construction equipment, other than normal wear and tear, shall be repaired or replaced at Contractor's expense; and

F. If such construction equipment is furnished with an operator, the services of such operator shall be performed under the complete direction and control of Contractor and such operator shall be considered Contractor's employee for all purposes other than the payment of wages, workers' compensation insurance and other employment benefits.

3.32 **Compliance with Real Property Interests**. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors performing Work at the Site to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work.

ARTICLE 4
OWNER'S RESPONSIBILITIES

Owner shall comply with the following provisions in a timely manner:

4.1 **Payment**. Owner shall timely pay the Contract Price in accordance with the provisions of Article 7 hereof.

4.2 **Permits**. Owner shall be responsible for obtaining the Permits listed in Attachment Q. To the extent Owner has not obtained any Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment Q and Owner shall provide Contractor with copies of such Permits within ten (10) Business Days after obtaining them. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 **Access to the Site**. Owner shall provide Contractor with reasonable access on the Train 1 Expansion Site. Subject to Section 3.24, such access shall be sufficient to permit Contractor to progress with Work (including as necessary to perform Work under an LNTP) on a continuous basis without substantial interruption or interference. In addition, Owner shall provide Contractor with reasonable access on the Existing Facility Site necessary for the performance of the Work; *provided, however*, except as allowed pursuant to Section 3.25, such access shall not interfere with the operation of the Existing Facility, nor shall it interfere with the performance of work by Owner's other contractors or subcontractors or other Persons. Contractor shall have the obligation to coordinate the performance of the Work with Owner and with any of Owner's other contractors or subcontractors as required in Sections 3.2P and 3.24.

4.4 **Operation Personnel**. Owner shall retain (through itself or an Affiliate) operating and maintenance personnel sufficient to pre-commission, commission, start-up and test the Train 1 Expansion under the supervision of Contractor during commissioning as set forth in Attachment V. Such personnel performing activities for the Train 1 Expansion shall be under the control of and supervised by Contractor in accordance with Section 3.30. For clarity, however, Owner (or its Affiliate) shall provide and pay for all of Owner's (or such Affiliate's) operating and maintenance personnel, including all wages, fringes, taxes and insurance.

4.5 **Texas Sales and Use Taxes**.

A. ***Sales and Use Taxes Exemption Certificates on Exempt Equipment***.

1. For Texas state and local sales and use tax purposes, this Agreement shall be considered to be a separated contract for the construction of new non-residential real property as defined under Applicable Law, including 34 Tex. Admin Code Rule § 3.291(a)(13). Contractor shall ensure that all Subcontracts are separated for Texas state and local sales and use tax purposes.

2. Listed in Attachment FF are those items of Equipment (including materials) to be permanently installed in the Train 1 Project in which Owner intends to claim a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes under Applicable Law, including the governing law specified in Section 21.9 ("***Tax Exempt Equipment***"), which such list may be adjusted by Owner at its sole discretion by Change Order. In addition, with respect to any additional items of Equipment added by Change Order which are subject to a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes, Owner will update the list of Tax Exempt Equipment in Attachment FF.

3. Prior to issuance of NTP or any LNTP directing Contractor to procure any Equipment, and to the extent not already included in Attachment GG, Owner shall issue a Texas direct pay exemption certificate and Texas Sales and Use Tax Exemption Certificate(s) to Contractor, and Contractor shall not invoice Owner for Texas state and applicable local sales and use tax on the separately stated Tax Exempt Equipment Price and separately stated Taxable Equipment Price. Pursuant to direct pay permit status, Owner shall pay Texas state and applicable local sales and use tax directly to the State of Texas and the applicable local Governmental Instrumentality on the Taxable Equipment Price. Contractor shall provide the documents and information necessary to allow the Owner to properly determine this tax liability. Contractor shall maintain for Owner's review copies of Texas state and applicable local sales and use tax exemption certificates and other similar documentation necessary to support all Texas state and applicable local sales and use tax exemptions that may be available to Owner, Contractor or any Subcontractor or Sub-subcontractor in connection with the Work.

4. Contractor shall reasonably cooperate with Owner to minimize any and all Texas state and applicable local sales and use taxes relating to the Train 1 Project. If Contractor or any Subcontractor or Sub-subcontractor incurs any Texas state and applicable local sales and use taxes on any items of Tax Exempt Equipment or Taxable Equipment listed in Attachment FF for which Owner provided Contractor with a valid applicable Texas state and applicable local sales and use tax exemption certificate or direct pay exemption certificate, Contractor shall be responsible for the payment of such Texas state

and applicable local sales and use taxes without reimbursement by Owner and CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY CLAIMS BY A GOVERNMENTAL INSTRUMENTALITY FOR SUCH TEXAS STATE AND APPLICABLE LOCAL SALES AND USE TAXES.

B. ***Additional Contractor Texas Sales and Use Tax Responsibilities***. Contractor shall be considered a retailer of all Equipment incorporated into the Work. Contractor shall issue a valid Texas sales and use tax resale exemption certificate for Taxable Equipment and Tax Exempt Equipment to its Subcontractors, and Contractor shall not pay, consistent with such exemption certificate, any sales and use tax on Taxable Equipment and Tax Exempt Equipment to Subcontractors. Notwithstanding the foregoing, Contractor shall remain responsible for the payment of all Taxes on account of the Work, including Texas state and applicable local sales and use taxes on any purchase, lease or rental of construction equipment and on any other purchases related to Work other than the Tax Exempt Equipment and Taxable Equipment.

4.6 **Hazardous Materials**. Owner shall remediate, remove, transport or dispose of any Hazardous Materials discovered or released at the Site (including Hazardous Materials used or generated by operation of the Existing Facility), including any Hazardous Materials brought on the Site by third parties, but excluding any Hazardous Materials that are the responsibility of Contractor pursuant to Section 3.17. Contractor shall provide reasonable assistance to Owner in its Hazardous Material remediation efforts. OWNER SHALL DEFEND, INDEMNIFY AND HOLD CONTRACTOR INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES) INCURRED BY CONTRACTOR CAUSED BY ANY HAZARDOUS MATERIALS FOR WHICH OWNER IS RESPONSIBLE UNDER THIS SECTION 4.6.

4.7 **Legal Description and Survey**. Owner shall provide to Contractor for Contractor's information a legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point.

4.8 **Owner Provided Items**. Owner shall provide those items listed in this Section 4.8 and in Attachment Z within the times listed therein, subject to the requirements and limitations set forth in this Section 4.8.

A. ***Natural Gas Feed to Achieve Substantial Completion***. As between Owner and Contractor under this Agreement, Owner shall procure and make natural gas feed available for commissioning, start-up, cool down and testing of the Train 1 Expansion (including natural gas or LNG utilized in the initial cool-down of the Train 1 Expansion). The natural gas feed to the Train 1 Expansion will meet the pressure, temperature and quality requirements set forth in Schedule A-2 in accordance with this Section 4.8A and the delivery requirements as set forth by Section 4.8A(i) below. Such natural gas feed shall be made available by (or on behalf of) Owner at the inlet of the natural gas pretreatment facilities to be constructed by Contractor as part of the Work. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all natural gas feed in order for Contractor to achieve Substantial Completion. Contractor

shall use GECP to minimize the amount of natural gas flaring or venting that is necessary to achieve Substantial Completion, and the start-up, commissioning and testing procedures agreed upon by the Parties shall be developed and administered in a manner to minimize natural gas flaring and venting. Further, Owner and Contractor will use reasonable efforts to allow for recirculation of natural gas and LNG between the Existing Facility and the Train 1 Expansion to aid Contractor in the start-up, cool down, commissioning and testing of the Train 1 Expansion to assist in minimizing the amount of natural gas flaring or venting necessary to achieve Substantial Completion.

(i) In order for Owner to schedule the procurement of natural gas feed to be provided by Owner in accordance with Section 4.8A, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing its first delivery of natural gas feed for the Train 1 Expansion. Within such written notice, Contractor shall provide Owner with a range of days and a range of flows for each Day which Contractor, using GECP, believes it will need for delivery of natural gas feed in order to achieve Substantial Completion. No later than the twentieth (20^{th}) day of the Month prior to the Month in which natural gas feed will first be delivered, Contractor will provide a second written notice to Owner with an updated forecast of the days and amounts of natural gas feed deliveries for such Day necessary to achieve Substantial Completion of the Train 1 Expansion, which such Days and amounts shall be within the ranges provided by Contractor in its initial notice. If Contractor provides the above notices in accordance with this Section 4.8A(i), Owner will procure such natural gas feed in accordance therewith, subject to the limitations set forth in Section 4.8A; if Owner fails to provide natural gas feed as required herein, and Contractor provided Owner with the notices required by this Section 4.8A(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the natural gas feed). Owner shall use reasonable efforts to procure natural gas feed deliveries in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure natural gas feed deliveries which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 1 Project Schedule or any other Changed Criteria.

B. ***Electrical Power Requirements to Achieve Substantial Completion***. Contractor shall procure and pay for all electricity necessary for the design, engineering, procurement and construction of the Train 1 Expansion until RFSU of the Train 1 Expansion; *provided that*, for purposes of clarity, Contractor shall continue to provide electricity for the design, engineering, procurement and construction of the Expansion Facility Dock until it is Ready for Startup in accordance with this Agreement. Thereafter, as between Owner and Contractor under this Agreement, Owner shall procure and make electricity available for the Train 1 Expansion meeting the requirements set forth in Schedule A-2 in accordance with this Section 4.8B for the commissioning, start-up and testing (including Performance Testing) of the Train 1 Expansion. Such electricity feed shall be made available by (or on behalf of) Owner at the interface between CenterPoint's high voltage transmission lines and the Facility's high voltage transmission lines. As

between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all electricity necessary from RFSU for achievement of Substantial Completion of the Train 1 Expansion. Contractor shall use GECP to use electricity in the most efficient manner practicable between RFSU and Substantial Completion of the Train 1 Expansion and minimize the consumption of electricity that is not utilized in producing incremental volumes of LNG meeting the specifications of this Agreement. The start-up, commissioning and testing procedures to be agreed upon by the Parties shall be developed and administered in a manner to ensure efficient use of electricity. For purposes of clarity, after Substantial Completion of the Train 1 Expansion and as between Owner and Contractor under this Agreement, Owner shall provide and pay for all electricity consumed by the Train 1 Expansion (whether consumed in the production of incremental on-spec LNG or otherwise), except the Expansion Facility Dock if it has not yet achieved RFSU at such time.

(i) In order for Owner to schedule the procurement of electricity to be provided by Owner in accordance with Section 4.8B, Contractor shall provide Owner with written notice at least ninety (90) Days prior to the scheduled date for achievement of RFSU of the Train 1 Expansion (as shown on the most recent Monthly Updated CPM Schedule). Within such written notice, Contractor shall provide Owner with a daily power load profile which Contractor, using GECP, anticipates for its electricity consumption between RFSU and Substantial Completion. At least forty-five (45) Days prior to the scheduled date for achievement of RFSU of the Train 1 Expansion (as shown on the most recent Monthly Updated CPM Schedule), Contractor shall provide Owner with a second written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the first forty-five (45) Day period after RFSU is achieved for the Train 1 Expansion. Every forty-five (45) Days thereafter, Contractor shall provide Owner with written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the next forty-five (45) Day period (or until Substantial Completion is achieved for the Train 1 Expansion). For purposes of clarity, and by way of example and explanation only, if Contractor's second written notice (provided 45 Days prior to the scheduled achievement of RFSU) was provided on March 1st (for a scheduled RFSU achievement on April 14th), such notice should provide an estimate for power usage from April 14th until May 28th. Then, on April 14th, Contractor shall provide Owner with written notice estimating the power usage from May 29th until July 12th. Contractor shall provide similar notices every 45 Days thereafter until it has estimated its power usage up to the scheduled date of Substantial Completion for the Train 1 Expansion. If Contractor provides the above notices in accordance with this Section 4.8B(i), Owner will procure electricity in accordance therewith; if Owner fails to provide electricity as required herein, and Contractor provided Owner with the notices required by this Section 4.8B(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the electricity). In the event Contractor's planned activities between RFSU and Substantial Completion deviate from those assumed for purposes of estimating the power loads necessary to be supplied by Owner (such that the estimated power

loads necessary for Contractor's activities change significantly in either amount, timing, or both), Contractor shall, as soon as reasonably possible, provide Owner with written notice of such deviations and provide new estimates for the power loads that have been previously estimated by Contractor.

C. ***Propane and Ethylene***. As between Owner and Contractor under this Agreement, Owner shall timely procure and pay for sufficient quantities of propane and ethylene (including any makeup propane and ethylene) for commissioning, startup and testing of the Train 1 Expansion. The propane and ethylene shall meet the specifications set forth in Attachment A. In order for Owner to schedule the supply of the quantities of propane and ethylene, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing delivery of the initial quantities of propane and ethylene for the Train 1 Expansion. Within such written notice, Contractor shall provide Owner with the quantities (itemized among the initial quantities and any makeup quantities) for both ethylene and propane which, using GECP, Contractor believes it will need in order to achieve Substantial Completion of the Train 1 Expansion. No later than ten (10) Days prior to Contractor's desired delivery date for the initial quantities of ethylene and propane, Contractor will provide a second written notice to Owner confirming or updating the quantities and delivery dates for the supply of ethylene and propane. If Contractor provides the above notices in accordance with this Section 4.8C, Owner will procure such ethylene and propane in accordance therewith; if Owner fails to provide propane or ethylene as required herein, and Contractor provided Owner with the notices required by this Section 4.8C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the propane or ethylene). Owner shall use reasonable efforts to procure ethylene and propane in amounts in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure supplies which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 1 Project Schedule or any other Changed Criteria.

D. ***LNG Evacuation Requirements***. Owner shall have the Existing Facility's LNG storage tanks operating at low heel prior to commencement of commissioning of the Train 1 Expansion. Owner shall evacuate LNG produced by the Train 1 Expansion from the LNG storage tanks in amounts necessary for Contractor to achieve Substantial Completion of the Train 1 Project (subject to Section 11.4A). Owner shall evacuate LNG from the LNG storage tanks in accordance with the notice procedure set forth in Section 11.1C. If Owner fails to provide LNG evacuation at the times and in the amounts required by Section 11.1C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 1 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to evacuate LNG from the LNG storage tanks). In addition to the LNG storage capacity available from the Existing Facility LNG storage tanks operating at low heel prior to commissioning of the Train 1 Expansion, Owner shall evacuate a minimum of 1,250,000 cubic meters of LNG from the LNG storage tanks (to the extent such amount is necessary for Contractor to achieve Substantial Completion) for the commissioning, tuning and testing of the Train 1

Expansion ("***LNG Evacuation Requirement***"). If Contractor requires additional amounts of LNG evacuated from the LNG storage tanks in order to achieve Substantial Completion, Owner shall evacuate such LNG in accordance with the requirements of Section 11.1C; *provided, however*, for each cubic meter of LNG evacuated by Owner above the LNG Evacuation Requirement, Contractor shall be liable to Owner for any actual, incremental costs to Owner (net costs after accounting for any revenues received by Owner as a result of such evacuation) not to exceed Twenty Four U.S. Dollars (U.S.$24.00) per cubic meter of LNG evacuated above the LNG Evacuation Requirement; *provided further, however*, that Contractor's aggregate liability to Owner for the foregoing incremental costs shall not exceed Twenty Million U.S. Dollars (U.S.$20,000,000) (and any such liabilities incurred by Contractor shall accrue against Contractor's aggregate liability under Section 20.1). While adhering to the LNG evacuation schedule required by Section 11.1C, Owner will use commercially reasonable efforts to avoid or minimize any net costs it incurs in providing LNG evacuation above the LNG Evacuation Requirement.

E. ***LNG Tanker Loading Requirements***. As between Owner and Contractor under this Agreement, Owner shall provide Contractor with LNG Tanker loading opportunities in order for Contractor to conduct the Ship Loading Performance Test for the Existing Facility LNG loading dock and the Expansion Facility Dock. For clarity, only one successful Ship Loading Performance Test, performed in accordance with Attachment S, is necessary for each of the LNG loading docks (*i.e.*, one successful test for the Existing Facility LNG loading dock to be modified as part of the Existing Facility Modifications and one successful test for the Expansion Facility Dock to be constructed as part of the Common Development Work). When performing the Ship Loading Performance Test for each LNG loading dock, Owner shall have, or cause to have, the LNG Tanker cold and ready to accept LNG transfer with no constraints on loading rates at or below the Ship Loading Rate MAC. Contractor shall have the right to determine which LNG Tanker loading opportunities provided by Owner will be utilized for the Ship Loading Performance Tests. Subject to Section 11.4A, Contractor will be provided with enough LNG Tanker loading opportunities for Contractor to successfully achieve the Ship Loading Performance Tests. Notwithstanding the foregoing, however, if (i) Contractor has been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Existing Facility LNG loading dock, (ii) Contractor's only barrier to achieving Substantial Completion of the Train 1 Expansion is passing the Ship Loading Performance Test for the Existing Facility LNG loading dock and (iii) Contractor is otherwise ready to perform such Ship Loading Performance Test, then Contractor's liability for Substantial Completion Delay Liquidated Damages shall not exceed thirty (30) Days of Substantial Completion Delay Liquidated Damages in the event Contractor is unable to conduct a Ship Loading Performance Test on the Existing Facility LNG loading dock due to Owner's inability to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. If the foregoing circumstances arise, once Contractor is provided with its next LNG Tanker loading opportunity (after Contractor has been provided with the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test on the Existing Facility LNG loading dock), if the Ship Loading Performance Test is unsuccessful, Contractor's

liability for Substantial Completion Delay Liquidated Damages shall re-commence but shall not exceed thirty (30) Days of additional Substantial Completion Delay Liquidated Damages if Owner is unable to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. Subject to Section 11.4A, the foregoing 30-Day limitation on Substantial Completion Delay Liquidated Damages and re-commencement of such Delay Liquidated Damages after an unsuccessful Ship Loading Performance Test shall continue until the Ship Loading Performance Test is achieved for the Existing Facility LNG loading dock. To the extent necessary for successful achievement of the Ship Loading Performance Test, Owner will use commercially reasonable efforts to provide Contractor with additional LNG Tanker loading opportunities as soon as possible after the initial ten (10) loadings have been provided.

1. In the event that (i) Contractor has not been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Existing Facility LNG loading dock, (ii) Contractor is ready to perform the Ship Loading Performance Test for the Existing Facility LNG loading dock, and (iii) such Ship Loading Performance Test is Contractor's only barrier to achieving Substantial Completion for the Train 1 Expansion, Contractor (once the Guaranteed Substantial Completion Date has arrived or if it has passed) shall be entitled to an extension to the Train 1 Project Schedule and adjustment to the Contract Price to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing the delay in providing LNG Tanker loading opportunities to Contractor) until the earlier of (1) a successful Ship Loading Performance Test is achieved or (ii) Owner provides (or causes to be provided) the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test at the Existing Facility LNG loading dock.

2. Notwithstanding anything to the contrary in Section 6.13 or elsewhere herein, Owner and Contractor agree and acknowledge that any rights to relief by Contractor arising out of or resulting from delays in providing Contractor with ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test for the Expansion Facility Dock are set forth in the Train 2 EPC Agreement, and Contractor shall not be entitled to any adjustment to the Contract Price or modification of any other Changed Criteria under this Agreement as a result therefrom; *provided that*, to the extent Contractor receives an extension under the Train 2 EPC Agreement with respect to the guaranteed substantial completion date under such Train 2 EPC Agreement arising out of or resulting from such delays in providing Contractor with ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test for the Expansion Facility Dock, Contractor shall be entitled to a Change Order under this Agreement extending the time period for achieving the Required Final Completion Date by the same number of days of the extension to the guaranteed substantial completion date under the Train 2 EPC Agreement.

ARTICLE 5
COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS

5.1 **Commencement of Work**. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence with the performance of the Work specified in such LNTP or NTP.

5.2 **Limited Notice to Proceed/Notice to Proceed**.

A. ***Limited Notices to Proceed***.

1. On the Effective Date, Owner shall issue to Contractor LNTP No. 1 in the form of Schedule H-3 ("***LNTP No. 1***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 1, subject to the payment provisions and maximum payments set forth in LNTP No. 1. The intent of LNTP No. 1 is for Contractor to perform Work that was previously on-going under the FEED Agreement for the Train 1 Expansion after execution of this Agreement, and additional Work activities, all as set forth in LNTP No. 1. All Work performed under LNTP No. 1 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 1 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 1 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 1 in Schedule C-1.

2. No later than March 15, 2014, Owner shall issue to Contractor LNTP No. 2 in the form of Schedule H-4 ("***LNTP No. 2***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 2, subject to the payment provisions and maximum payments set forth in LNTP No. 2. The intent of LNTP No. 2 is to allow Contractor to issue Subcontracts for certain critical long lead Equipment items as further set forth in LNTP No. 2. All Work performed under LNTP No. 2 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 2 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 2 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 2 in Schedule C-1. If Owner fails to issue LNTP No. 2 on or before March 15, 2014 or FLIQ2 fails to issue its second limited notice to proceed under the Train 2 EPC Agreement on or before the date set forth therein for its second limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

3. No later than May 1, 2014, Owner shall issue to Contractor LNTP No. 3 in the form of Schedule H-5 ("***LNTP No. 3***"), which shall authorize

Contractor to perform the Work specified in such LNTP No. 3, subject to the payment provisions and maximum payments set forth in LNTP No. 3. The intent of LNTP No. 3 is to allow Contractor a full release of engineering and procurement activities under the Agreement to the extent set forth in LNTP No. 3. All Work performed under LNTP No. 3 shall be performed pursuant to the terms and conditions of this Agreement and payment for Work performed under LNTP No. 3 shall be invoiced in accordance with Article 7 and the Payment Milestone Schedule based upon completion of Payment Milestones by performance of Work under LNTP No. 3 (and thereby be credited against the Contract Price); *provided that*, the maximum amount invoiced for Work performed under LNTP No. 3 cannot exceed the maximum amount set forth in LNTP No. 3 even if Payment Milestones in amounts greater than such maximum amount are completed during the performance of LNTP No. 3. If Owner fails to issue LNTP No. 3 on or before May 1, 2014, or FLIQ2 fails to issue its third limited notice to proceed under the Train 2 EPC Agreement by the date set forth therein for its third limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

4. At any time prior to the date of issuance of NTP, Owner may issue additional LNTPs in the form set forth in Schedule H-1, which shall authorize Contractor to commence performance of a specified portion of the Work; *provided that*, if issuance of such additional LNTP interferes with or delays the sequence and timing of Contractor's planned execution of the Work, then Contractor shall be entitled to a Change Order to adjust the Contract Price and Project Schedule in accordance with Section 6.9 as a result of the issuance of such additional LNTP. Each such LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Contract Price (as it may be adjusted by Change Order) and the first progress payment(s) to become due hereunder. Each LNTP shall be performed on a fixed-price basis, in accordance with the Payment Milestones defined in Attachment C, Schedule C-1 and the agreed upon payment terms, unless otherwise mutually agreed in writing by the Parties.

B. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Upon Contractor's receipt from Owner of the NTP, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-2. If Owner fails to issue NTP on or before August 1, 2014, or FLIQ2 fails to issue notice to proceed under the Train 2 EPC Agreement on or before August 1, 2014, then Contractor shall have the rights set forth in Section 5.2C.

C. ***Contract Price and Train 1 Project Schedule Validity and Delay in Issuance of LNTPs or NTP***. Subject to Section 5.2C.1 below, in order for the Contract Price and Train 1 Project Schedule to remain valid under this Agreement, Owner shall issue LNTP No. 2, LNTP No. 3 and NTP on or before the dates set forth in Sections

5.2A.2, 5.2A.3 and 5.2B, respectively, and FLIQ2 shall issue its second and third limited notices to proceed and notice to proceed under the Train 2 EPC Agreement on or before such same dates (as further set forth in Sections 5.2A.2, 5.2A.3 and 5.2B of the Train 2 EPC Agreement). If Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP, or FLIQ2 fails to issue its second or third limited notice to proceed or notice to proceed, in accordance within the dates established by the foregoing sentence, as such dates may be extended as set forth in Section 5.2C.1 below, then Contractor shall be entitled to an adjustment to the Contract Price and the Train 1 Project Schedule (including the Guaranteed Substantial Completion Date) if and to the extent the Parties' utilization of an open book estimate process substantially similar to that performed under the FEED Agreement shows, through a reevaluation of the Contract Price and Train 1 Project Schedule (including Subcontracts, labor costs, per diems, equipment and bulk material costs and delivery schedules), that issuance of LNTP No. 2, LNTP No. 3 or NTP under this Agreement, or the second or third limited notice to proceed or notice to proceed under the Train 2 Agreement, after the required dates set forth herein (as compared to on or before such dates) has resulted in increased costs chargeable to Contractor or an increased time for the performance of the Work (including 19% on such increased costs for Contractor's G&A and profit). For the avoidance of doubt, any adjustment to the Contract Price or Train 1 Project Schedule shall not be based upon a change in the scope of engineering work or the quantity of materials or equipment, or the amount of field labor or field in-directs, unless the staffing plan or Train 1 Project Schedule is materially affected by late issuance of the LNTPs or NTP described in this Section. Contractor shall use commercially reasonable efforts and GECP to mitigate the increase to the Contract Price or delay to the Train 1 Project Schedule.

1. If Contractor has not procured and delivered to Owner price and schedule offers on the CLL Equipment (as defined in LNTP No. 2) by February 15, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 2 shall extend Day-for-Day for each Day beyond February 15, 2014 that Contractor has not so procured such price and schedule offers and delivered them to Owner. In addition, if Contractor has not procured and delivered to Owner price and schedule offers (as applicable) for the remaining Provisional Sum Scope Items and Schedule Adjustment Items by April 1, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 3 shall extend Day-for-Day for each Day beyond April 1, 2014 that Contractor has not so procured the applicable price and schedule offers and delivered them to Owner.

2. In the event that Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP within the time periods required by this Agreement, or FLIQ2 fails to issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 2 EPC Agreement, and the Parties have not mutually agreed in writing to extend the applicable time periods (or they have not been extended pursuant to Section 5.2C.1), Contractor shall be entitled to an adjustment to the Contract Price and Train 1 Project Schedule as set forth in Section 5.2C above and such adjustments shall be set forth in a Change Order prior to Contractor being required to commence Work under an

NTP issued by Owner. For purposes of clarity, in the foregoing circumstances, Owner may also not require Contractor to commence the Work (other than Work already authorized under prior LNTPs or LNTPs allowed as set forth below) pursuant to a unilateral Change Order issued under this Agreement; *provided that*, notwithstanding the foregoing, Owner shall retain the right to issue additional LNTPs pursuant to Section 5.2A.4 for the limited purposes of progressing activities related to receiving an Updated Contract Price and Train 1 Project Schedule Proposal and otherwise mitigating against potential increases in the Contract Price and Train 1 Project Schedule related thereto.

3. Prior to issuance of NTP, Owner and Contractor shall meet monthly (either as part of the Monthly progress meeting under Section 3.19B or apart therefrom) to discuss the status of pending Permits, Owner's financing progress for the Expansion Facility and otherwise discuss any potential concerns related to Owner being able to achieve the LNTP and NTP time periods set forth above. If necessary, Owner shall have the right to submit a written notice to Contractor notifying Contractor that Owner may not issue LNTP No.2, LNTP No. 3 or NTP within the time periods required by this Agreement (or that FLIQ2 may not issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 2 EPC Agreement) and requiring Contractor to prepare an updated proposal for the Contract Price and Train 1 Project Schedule (the "***Updated Contract Price and Train 1 Project Schedule Proposal***") to be valid for Owner's acceptance for a period of ninety (90) Days from its issuance to Owner (or such other validity period that may be agreed upon by the Parties in writing). Such Updated Contract Price and Train 1 Project Schedule Proposal shall be performed in accordance with Section 5.2C above. In Owner's written notice to Contractor for the Updated Contract Price and Train 1 Project Schedule Proposal, Owner may request that Contractor's proposal include plans to accelerate the Work in order to maintain, to the extent practicable, the original Train 1 Project Schedule. Upon receipt of the written notice from Owner, Contractor shall promptly commence the update to the Contract Price and Train 1 Project Schedule and shall submit the Updated Contract Price and Train 1 Project Schedule Proposal as promptly as practicable, but in any event no more than sixty (60) Days after receipt of the foregoing written notice from Owner. Once received by Owner, the Updated Contract Price and Train 1 Project Schedule Proposal shall be subject to negotiation between Owner and Contractor, and if there are agreed adjustments, such adjustments shall be valid for Owner's acceptance within the validity period for the Updated Contract Price and Train 1 Project Schedule Proposal (or such other validity period that may be agreed upon in writing by the Parties). If the Parties agree on an updated Contract Price and Train 1 Project Schedule, the adjustments to the Contract Price and Train 1 Project Schedule shall be adjusted by Change Order signed by Owner and Contractor.

4. The Updated Contract Price and Train 1 Project Schedule Proposal shall be based upon a mutually agreed Work scope to continue under one or more LNTPs under this Agreement (and corresponding limited notices to proceed under the Train 2 EPC Agreement) until issuance of NTP hereunder by Owner and notice to proceed by FLIQ2 under the Train 2 EPC Agreement. If the Parties have not agreed upon an updated Contract Price and Train 1 Project Schedule, and Owner has not issued NTP under this Agreement (and FLIQ2 has not issued notice to proceed under the Train 2 EPC Agreement) within the validity period of the applicable proposal, Sections 5.2C.1 through 5.2C.3 shall apply in the event Owner requests subsequent updated proposals for the Contract Price and Train 1 Project Schedule.

5.3 **Train 1 Project Schedule**. Contractor shall perform the Work in accordance with the Train 1 Project Schedule set forth in this Section 5.3 and in Attachment E.

A. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Train 1 Expansion no later than 1,461 Days following Owner's issuance of LNTP No. 3 to Contractor ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

B. ***Required Final Completion Date***. Contractor shall achieve Final Completion no later than the guaranteed substantial completion date of the Train 2 EPC Agreement ("***Required Final Completion Date***"); *provided that*, if the Train 2 EPC Agreement is terminated prior to achieving substantial completion thereunder, the Parties shall establish the Required Final Completion Date pursuant to a Change Order in accordance with Section 6.14, *provided* such date shall be no later than thirty (30) Days after the date of the guaranteed substantial completion date of the Train 2 EPC Agreement at the time it was terminated. The Required Final Completion Date shall only be adjusted by Change Order as provided under this Agreement; *provided that*, subject to Section 6.14 and any termination of the Train 2 EPC Agreement, the Parties acknowledge that changes to the guaranteed substantial completion date of the Train 2 EPC Agreement pursuant to the terms of the Train 2 EPC Agreement shall also similarly modify the Required Final Completion Date of this Agreement.

C. ***Schedule Adjustment Items***. The Train 1 Project Schedule shall be subject to adjustment prior to, or upon, issuance of LNTP No. 2 and LNTP No. 3 for certain Schedule Adjustment Items as further set forth in Attachment DD. Any such adjustments shall be set forth by Change Order issued in accordance with Attachment DD.

5.4 **CPM Schedule**.

A. ***Baseline CPM Schedule Submissions***. Within sixty (60) Days after the Owner's issuance of the NTP, Contractor shall prepare and submit to Owner for its review and written approval a baseline critical path method schedule consisting of a resource/work-hour loaded CPM Schedule using Primavera Project Planner version 6.x or higher detailed to a discipline, craft and subsystem level based upon the Work Breakdown

Structure (upon Owner's approval, the "***Baseline CPM Schedule***"). The Baseline CPM Schedule shall, at a minimum, be detailed as a resource loaded schedule with project unit area, and discipline (as described in the Work Breakdown Structure) for activities for the Train 1 Project (including engineering, procurement, construction, pre-commissioning, commissioning, testing and startup), shall be fully integrated, shall be consistent with the Train 1 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date, and shall show an uninterrupted critical path from NTP through RFSU, RLFC, Substantial Completion and Final Completion. In addition, the Baseline CPM Schedule shall be capable of being integrated with the baseline critical path method schedule developed under the Train 2 EPC Agreement in order to produce a master baseline critical path method schedule for the combined Train 1 Project and Train 2 Project. With respect to each activity in the Baseline CPM Schedule, the Baseline CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value and projected work-hours as well as identify the Work interfaces for other parties' activities (including Owner, Owner's other contractors, and utility companies), which shall be sorted by the Work Breakdown Structure and scheduled start or another format agreed upon by Owner. The Baseline CPM Schedule shall represent Contractor's judgment, using GECP, as to how it shall complete the Work in compliance with the Train 1 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date. The Baseline CPM Schedule shall be submitted in electronic format, created by Primavera Project Planner software back-up utility and including all Primavera Project Planner network data. Contractor shall submit with the Baseline CPM Schedule the following: (a) Primavera based listing of "predecessor/successor" in tabular format showing activities in the Baseline CPM Schedule, their predecessor activities and relationships and their successor activities and relationships; (b) progress "S" curve, showing the baseline plan, actual and forecast progress by Month for total progress of the Work, which shall be based on the Baseline CPM Schedule; (c) engineering discipline and overall engineering and construction manpower histograms showing forecast manpower required by Month, for scheduled completion of the Work; (d) Drawing log showing the Drawing number, title, planned, actual and forecast issue for construction ("***IFC***") release dates by discipline and reporting period; and (e) procurement log showing the Equipment Subcontract order number, description, forecast and actual bid release dates, Equipment Subcontract order release dates, required-at-Site dates and delivery dates.

B. ***Monthly Updated CPM Schedules.*** After approval by Owner of the Baseline CPM Schedule described in Section 5.4A, Contractor shall manage and update (no less frequently than once every month), using GECP, a critical path method schedule for the Work with Primavera Project Planner (each such updated schedule being a "***Monthly Updated CPM Schedule***") showing the actual, up-to-date progress of the Work and forecasted Work activities. The Monthly Updated CPM Schedule shall not modify the Baseline CPM Schedule or the Train 1 Project Schedule (including the Guaranteed Substantial Completion Date or the Required Final Completion Date), nor shall it change any dates that relate to Owner's obligations or Work interfaces under the Agreement. Each Monthly Updated CPM Schedule shall meet the requirements of Section 5.4 and Attachment X, and in addition shall (i) at a minimum be prepared with the same level of detail as the Baseline CPM Schedule, (ii) show the Baseline CPM Schedule, (iii) for each

activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity and forecasted completion date for each such activity, (v) for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of RFSU, RLFC, Substantial Completion and Final Completion, and (vii) update the Monthly Updated CPM Schedule with all other information shown in the Baseline CPM Schedule, reflecting the Work as actually performed or as forecasted. In addition, the Monthly Updated CPM Schedule shall be capable of being integrated with the monthly updated critical path method schedule developed and updated under the Train 2 EPC Agreement in order to produce a master monthly updated critical path method schedule for the combined Train 1 Project and Train 2 Project. The Monthly Updated CPM Schedule shall be submitted to Owner in the same detail and form as required by the Baseline CPM Schedule. If Contractor changes the schedule logic, any durations or resource-loading with respect to any activity in its Monthly Updated CPM Schedule such that it deviates from the Baseline CPM Schedule, Contractor shall provide Owner with a written explanation of each such change along with the Monthly Updated CPM Schedule (but the Baseline CPM Schedule shall not be changed). Contractor shall promptly correct any errors or inconsistencies in the updates to the Monthly Updated CPM Schedule identified to Contractor by Owner and shall re-submit a corrected Monthly Updated CPM Schedule to Owner for review.

C. ***Review, Comments and Approvals of CPM Schedules***.

1. In addition to the approval of the Baseline CPM Schedule described in Section 5.4A, Owner shall review and approve any proposed adjustments to the Baseline CPM Schedule. The Baseline CPM Schedule shall not be adjusted except by Change Order.

2. No more than once every three (3) Months, Owner shall have the right to review, analyze and comment on the Monthly Updated CPM Schedule. As a component of the process for Owner's review of the Monthly Updated CPM Schedule pursuant to this Section 5.4C.2, Owner and Contractor shall conduct a schedule workshop with the Monthly Updated CPM Schedule and conduct a detailed schedule analysis on the CPM Schedule with third party software applications (selected and provided by Owner, at its cost) capable of performing forensic, metric and logic analysis on the CPM Schedule (such as Acumen Fuse™ or P6 Project Integrity Checker). A mutually agreed upon set of parameters and thresholds shall be set forth in writing and used by Contractor and Owner for this review. Based upon the schedule analysis (including the use of the third party software applications) and the agreed upon schedule parameters and thresholds, schedule corrections and/or optimizations shall be generated. All such correction and/or optimizations shall be mutually resolved by Contractor and Owner.

3. Any review, comment or approval by Owner of the Baseline CPM Schedule, any adjustments to the Baseline CPM Schedule or any Monthly Updated CPM Schedule shall not relieve Contractor of any obligations for the

performance of the Work, nor shall it be construed to establish the reasonableness of the Baseline CPM Schedule or any Monthly Updated CPM Schedule. In addition, any review, comment or approval by Owner of any Monthly Updated CPM Schedule is for purposes of verifying Contractor's development of Monthly Updated CPM Schedules meeting the requirements of Section 5.4 and shall not, under any circumstances, change the Train 1 Project Schedule (including the Guaranteed Substantial Completion Date), alter the timing of any of Owner's obligations or Work interfaces identified in the Baseline CPM Schedule or otherwise modify any other aspect of the Baseline CPM Schedule. Owner shall be entitled to reasonably rely upon the Baseline CPM Schedule and any Monthly Updated CPM Schedules, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to plan, organize, direct, coordinate, perform, execute and complete each portion of the Work within the times set forth in the Train 1 Project Schedule.

D. ***30 Day Look-ahead Schedule***. No later than the tenth (10^{th}) Day of each Month, Contractor shall submit to Owner a 30 Day look-ahead schedule ("***30 Day Look-ahead Schedule***"), which shall be based on the Monthly Updated CPM Schedule showing in detail the activities to be performed during the next thirty (30) Days, including target, forecast and actual dates for each activity, shall be detailed into project unit area and discipline, and shall meet all other requirements of updates to the Monthly Updated CPM Schedule as described in Section 5.4C.

E. ***Form of Submittals; Access to Native Files***. Submittals of the Baseline CPM Schedule (as may be adjusted from time to time via Change Order) and the Monthly Updated CPM Schedules by Contractor to Owner shall be in both native electronic and paper format. Native electronic submissions of the Baseline CPM Schedule and the Monthly Updated CPM Schedules shall be provided via password-protected document control system access and may be downloaded from the secure system by Owner personnel having password authorization. Four (4) hard copies of each submittal shall be provided to Owner, and one (1) electronic copy shall be provided to Owner. Owner acknowledges that the native electronic files of the Baseline CPM Schedule and the Monthly Updated CPM Schedules include Contractor's Confidential Information of an extremely sensitive nature that is governed by the terms of this Agreement's confidentiality provisions. In addition to its confidentiality obligations hereunder, Owner shall regulate the distribution of, and access to, the native electronic files provided by Contractor on a need-to-know basis (including among its own employees and its Affiliates and Affiliates' employees) and shall only distribute such native electronic files to the extent necessary for the exercise of Owner's rights and obligations under this Agreement or as required by its Lenders. Such native electronic files shall be protected in the same manner, and under the same policies and procedures, that Owner protects Owner's Confidential Information, which such policies and procedures shall be of a level at least equal to industry standards for protection of like information.

F. ***Failure to Submit CPM Schedule***. In the event Contractor fails to provide the schedules in accordance with Sections 5.4 and 5.6, Owner shall have the right to withhold payment of Invoices due until compliance with Sections 5.4 and 5.6 is achieved.

5.5 **Recovery and Recovery Schedule**. If, at any time during the prosecution of the Work, (i) should the Monthly Updated CPM Schedule or Monthly Progress Report show that any activity on the critical path of the applicable CPM Schedule is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date (as such Guaranteed Substantial Completion Date or Required Final Completion Date may be adjusted by Change Order executed by the Parties), or should Contractor fail to provide a Monthly Updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on the critical path is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date, or should Contractor fail to achieve any Schedule Milestone within thirty (30) Days after the date specified for such Schedule Milestone (as such Schedule Milestones may be adjusted by Change Order executed by the Parties) and (ii) Contractor or any of its Subcontractors or Sub-subcontractors are in Owner's reasonable judgment responsible for such delay, Owner may, in addition to any other remedies that it may have under this Agreement, require that Contractor prepare a schedule to explain and display how it intends to regain compliance with the Baseline CPM Schedule during the immediate subsequent pay period or other period selected by Owner ("***Recovery Schedule***"). Contractor shall do the following after written notification by Owner of the requirement for a Recovery Schedule:

A. Within ten (10) Business Days after such written notification, Contractor shall prepare the Recovery Schedule and submit it to Owner for its review. Contractor shall prepare the Recovery Schedule even if Contractor disputes Owner's determination of the need for a Recovery Schedule. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline CPM Schedule. The Recovery Schedule shall be prepared in accordance with GECP and to a similar level of detail as the Baseline CPM Schedule, and shall have (unless otherwise specified in writing by Owner) a maximum duration of sixty (60) Days unless otherwise mutually agreed.

B. Within ten (10) Business Days after Contractor submits a Recovery Schedule, Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for review by Owner within three (3) Days after the conference. The revised Recovery Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of Subcontractors and Sub-subcontractors) for the duration specified in Section 5.5A, to regain compliance with the Baseline CPM Schedule.

C. Contractor shall perform the Work in accordance with the Recovery Schedule.

D. Five (5) Days prior to the expiration of the Recovery Schedule, Contractor shall meet with Owner at the Site to determine the effectiveness of the Recovery Schedule and to determine whether Contractor has regained compliance with the Baseline CPM Schedule. At the direction of Owner, one of the following shall happen:

1. If, in the opinion of Owner, Contractor is still behind schedule, Contractor shall be required to prepare another Recovery Schedule pursuant to Section 5.5A above, to take effect during the immediate subsequent pay period or other period selected in writing by Owner. Contractor shall prepare such Recovery Schedule even if Contractor disputes Owner's opinion.

2. If, in the opinion of Owner, Contractor has sufficiently regained compliance with the Baseline CPM Schedule, Contractor shall return to the use of the Baseline CPM Schedule.

E. In preparing and executing the Recovery Schedule, Contractor shall take all steps necessary to regain compliance with the Baseline CPM Schedule, including establishing additional shifts, hiring additional manpower, paying or authorizing overtime, providing additional equipment, and resequencing activities.

F. The cost of preparing the Recovery Schedule, and performing in accordance therewith, shall be for Contractor's account.

G. Owner's requirement, review and approval of the Recovery Schedule, or its decision not to request a Recovery Schedule, shall not relieve Contractor of any obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Required Final Completion Date, or be construed to establish the reasonableness of the Recovery Schedule.

H. Failure of Contractor to comply with its obligation to provide a Recovery Schedule in accordance with this Section 5.5, after Owner provides Contractor with fifteen (15) Days prior written notice, shall be a Default.

5.6 **Acceleration and Acceleration Schedule**. Even if the Work is otherwise in compliance with the Baseline CPM Schedule, Owner may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, providing additional construction equipment or expediting Equipment; *provided, however*, (i) in no event shall Owner unilaterally order acceleration of the Work requiring Contractor to achieve Substantial Completion or Final Completion prior to the respective, original Guaranteed Substantial Completion Date or Required Final Completion Date and (ii) unless the Parties mutually agree by Change Order to adjustments to the Train 1 Project Schedule as a result of the acceleration, Contractor's obligation with respect to an acceleration directive from Owner shall be limited to using commercially reasonable efforts to accelerate the Train 1 Project Schedule. In the event of this directive, Owner's sole liability shall be to pay to Contractor any documented costs clearly and solely attributable to such acceleration. Such costs may include any incremental overhead or administrative costs, shift differential, premium, margin on incremental costs, increased costs

resulting from any inefficiencies realized as a result of such acceleration, costs to expedite, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work (including additional indirect staff) on a full-time basis actually incurred over and above Contractor's normal rates, and overtime charges for equipment. Any adjustment to the Contract Price or any other Changed Criteria that the Parties agree in writing will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order. If Owner directs Contractor in writing to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by Owner, and shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Baseline CPM Schedule (the "***Acceleration Schedule***"). With respect to the Acceleration Schedule, Contractor shall do the following:

A. No later than the tenth (10^{th}) Business Day after such directive or such longer time as may be mutually agreed in writing by the Parties, Contractor shall prepare the Acceleration Schedule and submit it to Owner for its review. The Acceleration Schedule shall represent Contractor's best judgment as to how it shall satisfy Owner's acceleration directive. The Acceleration Schedule shall be prepared using GECP and to a similar level of detail as the Baseline CPM Schedule.

B. On the tenth (10^{th}) Business Day after such directive (or such longer time as may be mutually agreed in writing by the Parties), Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Acceleration Schedule. Any revisions to the Acceleration Schedule necessary as a result of this review shall be resubmitted for review by Owner no later than the tenth (10th) Day after such meeting or such other date as may be agreed in writing by the Parties. The revised Acceleration Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing that portion of the Work that is affected by such acceleration, with the Baseline CPM Schedule governing the performance of all other Work.

C. Owner's review and approval of the Acceleration Schedule shall not constitute an independent evaluation or determination by Owner of the workability, feasibility, or reasonableness of that schedule.

ARTICLE 6
CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 **Change Orders Requested by Owner**. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

A. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within five (5) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Contract Price, the Train 1 Project Schedule, the Design Basis, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees, or any

other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). With Contractor's response, Contractor shall provide a written statement to Owner that sets forth the effects, if any, that the proposed Change Order would have on the contract price, project schedule or other obligation or liability of Contractor under the Train 2 EPC Agreement, and Contractor shall provide a copy of such notice to FLIQ2 pursuant to the Train 2 EPC Agreement. If it is not possible for Contractor to provide all of the information required under this Section 6.1A to be submitted with such written statement within such five (5) Business Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such five (5) Business Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed Change Order from Owner. The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.6B.

1. In the event that Owner requests Contractor to prepare a response to a proposed Change Order pursuant to Section 6.1A, and Contractor believes that the incremental cost to be incurred by Contractor in order to prepare such response will exceed Eight Thousand U.S. Dollars (U.S.$8,000), then Contractor shall give Owner written notice within five (5) Business Days after receipt of Owner's request, and prior to incurring costs with respect to such response, identifying such threshold may be exceeded and providing Owner with an estimate of the incremental cost to prepare such response to the proposed Change Order. Owner shall then have the right to request Contractor to proceed with the response or not. If Owner requests Contractor to proceed and Owner ultimately decides not to enter into a Change Order based upon this response, then Owner's payment responsibility shall be for Contractor's incremental costs above the foregoing threshold amount incurred in providing the response to the proposed Change Order (but not to exceed Contractor's estimated cost for the Change Order response unless prior approval is given by Owner in writing).

B. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement; *provided that*, even if the Parties agree upon the Changed Criteria, if Contractor has timely notified Owner pursuant to Section 6.1A above that the proposed Change Order would affect Contractor's obligations or liabilities under the Train 2 EPC Agreement, then Owner and Contractor may not execute the contemplated Change Order unless and until either (i) the proposed Change Order is modified such that no obligations or liabilities of Contractor under the Train 2 EPC Agreement are affected or (ii) FLIQ2 ratifies the proposed Change Order by executing a corresponding change order pursuant to the Train 2 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 2 EPC Agreement that result from the Change Order contemplated under this Agreement.

C. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1A, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order on a time and materials basis using the rates as set forth in Schedule D-4, or if not specified therein, at rates not to exceed then-current market rates with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible. If the Parties cannot agree on the effect of such unilateral Change Order within ninety (90) Days after Substantial Completion, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) and shall diligently perform the changed Work or other obligations required in such unilateral Change Order.

1. Notwithstanding anything to the contrary in Section 6.1C or 6.2D, Owner shall not have the right to issue a unilateral Change Order pursuant to such Section 6.1C or 6.2D if Contractor has notified Owner pursuant to Section 6.1A that the proposed Change Order will affect Contractor's obligations or liabilities under the Train 2 EPC Agreement unless and until (i) the unilateral Change Order is modified such that no obligations or liabilities of Contractor under the Train 2 EPC Agreement are affected or (ii) FLIQ2 ratifies the proposed Change Order by executing a corresponding unilateral change Order pursuant to the Train 2 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 2 EPC Agreement that result from the unilateral Change Order issued under this Agreement.

6.2 **Change Orders Requested by Contractor**.

A. Contractor shall only have the right to request a Change Order in the event of any of the following occurrences:

1. Acts or omissions of Owner, or of any Owner Indemnified Parties or any other Person acting on behalf of or under the control of Owner, that

constitute a breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to delays (as that term is defined Section 6.10) caused by any Owner Indemnified Parties or any Person acting on behalf or under the control of Owner, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9;

2. Force Majeure to the extent allowed under Section 6.8A;

3. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued;

4. To the extent Contractor has complied with Section 3.17, discovery of pre-existing Hazardous Materials at the Site that adversely affect Contractor's cost (which costs shall be adequately documented and supported by Contractor) of the performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such discovery of pre-existing Hazardous Materials, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9;

5. To the extent expressly permitted under Section 2.5B.2, 2.5B.3, 3.3C.5, 3.24A, 4.8A(i), 4.8B(i), 4.8C, 4.8D, 4.8E.1, 4.8E.2, 5.2C, 6.15, 7.10B, 8.2A.3, 8.2A.4, 11.1D.2, 12.2A, 16.6, 21.22D, or 21.22E, or Section 4.13.8, 14.2, 14.6 or 14.22 of Schedule A-1, Section 6.1 of Schedule A-2, Section 5.1 of Schedule A-3, or Section 1.P or 2.D of Attachment O;

6. Purchase of operating spare parts in accordance with Section 3.4C;

7. Suspension in Work ordered by Owner pursuant to Section 16.3 or a suspension in Work allowed to Contractor pursuant to Section 16.4;

8. Changes in Law that materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such Changes in Law, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9; or

9. To the extent expressly permitted under Attachment DD.

B. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.6, notify Owner in writing and issue to Owner, at Contractor's expense, a request for a proposed Change Order in the form attached hereto as Schedule D-3, a detailed explanation of the proposed change and Contractor's reasons

for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.6. Any adjustments to the Contract Price shall be requested on a fixed price separated basis according to Article 7 (or such other pricing basis as the Parties may mutually agree in writing) and shall be derived from the rates set forth in Schedule D-4 to the extent applicable or, if not stated therein, derived from rates not to exceed then-current market rates.

C. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

D. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1C are applicable.

E. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, as modified by any previously agreed Change Orders, and with the terms of any unilateral Change Orders.

6.3 **Change Orders Requested by FLIQ2 Under the Train 2 EPC Agreement**. Contractor shall provide Owner with written notice as to whether any change orders proposed by FLIQ2 under the Train 2 EPC Agreement will affect Contractor's obligations or liabilities under this Agreement. Such notice shall be provided by Contractor within five (5) Business Days after Contractor's receipt of the proposed change order from FLIQ2, *provided that*, if it is not possible for Contractor, using GECP, to determine whether the proposed change order will affect Contractor's obligations or liabilities under this Agreement within such five (5) Business Day period, Contractor shall provide Owner with written notice of the potential of such an impact within such 5-Business Day period along with as a written explanation of the reason that additional time is required. Contractor shall then exercise reasonable diligence to provide information on the effects to Contractor's obligations or liabilities under this Agreement as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed change order from FLIQ2. Upon receipt of such written notice, Owner shall promptly coordinate with FLIQ2 and Contractor to discuss the impacts to Contractor's obligations and responsibilities under this Agreement and the Expansion Facility overall. Thereafter, Owner will respond to Contractor by either (i) ratifying FLIQ2's proposed change order (as such proposal may be modified as a result of the discussions between Contractor, Owner and FLIQ2) by executing a corresponding Change Order (whether mutual or unilateral) pursuant to this

Agreement or (ii) rejecting the effects of FLIQ2's proposed action on the Train 1 Project. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 6.3 that a FLIQ2 proposed change order will affect the liabilities and obligations of Contractor under this Agreement, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement resulting from a change order proposed and/or implemented by FLIQ2 under the Train 2 EPC Agreement.

6.4 **Contract Price Adjustment; Contractor Documentation**. If a Change Order is executed on a time and materials basis pursuant to Section 6.1C or 6.2D, then interim payments shall be made to Contractor in accordance with the terms of Section 6.1C for such unilateral Change Order Work; *provided that* the Contract Price shall not be adjusted unless and until the a mutual Change Order is executed by the Parties that supersedes the unilateral Change Order (and such mutual Change Order adjusts the Contract Price) or the dispute underlying the unilateral Change Order is resolved in accordance with Article 18 requiring an adjustment to the Contract Price. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets, invoices and receipts. With respect to all unilateral and mutual Change Orders, as well as any requests for Change Orders by Contractor pursuant to Section 6.2, Contractor shall maintain and present all applicable Books and Records and other documentation related to such actual or requested Change Orders in a manner that would allow such documentation (including cost and schedule-related information) to be segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

6.5 **Change Orders Act as Accord and Satisfaction**. Change Orders agreed pursuant to Section 6.1B or 6.2C by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1C or 6.2D on a time and materials basis and which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a superseding and mutually agreed upon Change Order as provided in Section 6.1B or 6.2C, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for all direct and indirect impacts of such change. Accordingly, unless otherwise expressly and conspicuously stated in such Change Order, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work); *provided, however*, Contractor may only expressly reserve its right under a Change Order to make such claim or demand or take any such action or proceeding against Owner if

Contractor is not able in good faith to determine, using GECP, all of the effects of the change at the time of executing such Change Order and, *provided further*, subject to Section 6.5A, that if Contractor so expressly reserves its rights in accordance with this Section 6.5, Contractor shall make such claim or demand or take any such action or proceeding against Owner within a reasonable time but in no event later than three (3) months after the date of such Change Order (unless the Parties mutually agree to extend such time period in writing), and if Contractor fails to bring such claim or demand within such three (3) month period (or such longer time period as the Parties mutually agree in writing), Contractor is deemed to have forever waived and released such claim or demand.

A. The foregoing three (3) month time period set forth in Section 6.5 for Contractor bringing forth to Owner a previously reserved claim or demand shall not apply for Change Orders requested under Sections 6.2A.2, 6.2A.3, 6.2A.8, 8.2A.3, or 8.2A.4 and, in such circumstances, Contractor shall bring such previously reserved claim or demand as soon as reasonably possible using GECP but no later than prior to Substantial Completion.

6.6 **Timing Requirements for Notifications and Change Order Requests by Contractor**. Should Contractor desire to seek an adjustment to the Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Milestone Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

A. notify Owner in writing of the existence of such circumstance within twenty (20) Days after the date that Contractor's Key Personnel knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* if such circumstance is an emergency, oral notice shall be given immediately, followed with written notice within three (3) Days after the date such oral notice is provided. In such notice (written or oral), Contractor shall state in detail all known and presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the good faith estimate of cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the applicable CPM Schedule), any other details or information that are expressly required under this Agreement and any information and documents relevant to such claim or circumstance. Contractor shall only be required to comply with the notice requirements of this Section 6.6A once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

B. submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner written notice but in no event later than seven (7) Days after the completion of each such circumstance, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all

documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Schedule D-4, detailed estimates and cost records, daily time sheets and a graphic demonstration using the applicable CPM Schedule, showing Contractor's entitlement to a time extension to the Train 1 Project Schedule pursuant to the terms of this Agreement, which shall be provided in hard copy and in native electronic format in accordance with Section 5.4E); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria. If it is not possible for Contractor to provide all of the information required under this Section 6.6B to be submitted with such proposed Change Order within such seven (7) Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such seven (7) Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's submission of such proposed Change Order.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.6, and agree that such requirements are an express condition precedent necessary to any right for an adjustment in Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement.

6.7 **Adjustment Only Through Change Order**. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or Required Final Completion Date, Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6. Contractor shall not perform any change in the Work unless and until such change is authorized pursuant to this Article 6, and should Contractor perform or claim to perform any changes in the Work prior to authorization by Change Order, all such costs and expenses incurred by Contractor shall be for Contractor's account. No course of conduct or dealings between the Parties, nor express or implied acceptance of additions, deletions, suspensions or modifications to this Agreement, including any Work, and no claim that Owner has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim for an adjustment in the Contract Price, the Train 1 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, the Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor under this Agreement.

6.8 **Force Majeure**.

A. ***Contractor Relief***.

1. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an extension to the Guaranteed Substantial Completion Date or the Required Final Completion Date if such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11. Subject to Section 6.8A.2, the Parties agree that Contractor's sole remedy for such delay shall be an adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date, as applicable, pursuant to a Change Order. Any adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date shall be recorded in a Change Order.

2. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an adjustment to the Contract Price as provided in (a) or (b) below if Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11 and meets the requirements of either (a) or (b) below. Any adjustment to the Contract Price shall be recorded in a Change Order.

(a) With respect to any one or more hurricanes or named tropical storms in (or forecasted by the National Weather Service to make landfall in) the Texas Gulf Coast region that constitute a Force Majeure event, Contractor shall be entitled to an adjustment to the Contract Price for reasonable incremental costs (including for field indirect personnel and field overhead) necessarily incurred by Contractor (i) to prepare the Work on the Site to safely weather such hurricane or named tropical storm, (ii) during demobilization of Contractor's personnel and applicable construction equipment from the Site to a safe off-Site location prior to the Force Majeure and (iii) during remobilization of Contractor's personnel and applicable construction equipment from the off-Site location to the Site after the Force Majeure; *provided that* Contractor shall bear at its own expense the first Three Hundred Seventy-Five Thousand U.S. Dollars (US$375,000) of such costs with respect to any one hurricane or named tropical storm, *provided further that* the aggregate amount which Contractor shall be required to bear with respect to the above costs is One Million U.S. Dollars (US$1,000,000).

(b) In the event that any one or more Qualified Force Majeure Events, in the aggregate, cause Contractor to achieve Substantial

Completion more than thirty (30) Days after the Guaranteed Substantial Completion Date, Contractor shall be entitled to an adjustment to the Contract Price for reasonable costs necessarily incurred by Contractor for further delay occurring after the expiration of such thirty (30) Day aggregate period as a result of Qualified Force Majeure Events. A "***Qualified Force Majeure Event***" is a single Force Majeure event that otherwise meets the requirements of Section 6.8A.1 and causes Contractor to achieve the Substantial Completion five (5) or more Days after the Guaranteed Substantial Completion Date.

B. ***Owner Relief***. Subject to Section 6.8C, Owner's obligations under this Agreement shall be suspended to the extent that performance of such obligations is delayed by Force Majeure.

C. ***Payment Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement shall be excused by reason of Force Majeure.

6.9 **Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law**. Should (i) Owner, or any Owner Indemnified Party or any other Person acting on behalf or under the control of Owner, subject to Section 21.22, delay the commencement, prosecution or completion of the Work, and to the extent such delay is not attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement or such delay is caused by Owner's ordering a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1), or (ii) the commencement, prosecution or completion of the Work be delayed as a result of (1) subsurface conditions for which Contractor is entitled to adjustments to the Contract Price and/or Train 1 Project Schedule, as applicable, under Section 2.5B.2, (2) Contractor's discovery of pre-existing Hazardous Materials on the Site for which Contractor is entitled to relief under Section 6.2A.4, (3) Changes in Law for which Contractor is entitled to relief under Section 6.2A.8, (4) Owner's interference with the Work for which Contractor is entitled to relief under Section 3.24A, (5) Owner's failure to provide natural gas feed in the amounts and at the times required by Section 4.8A(i) (unless due to Force Majeure), (6) Owner's failure to provide electricity in the amounts and at the times required by Section 4.8B(i) (unless due to Force Majeure), (7) Owner's failure to provide propane or ethylene in the amounts and at the times required by Section 4.8C (unless due to Force Majeure), (8) Owner's failure to provide LNG evacuation in accordance with Section 4.8D and 11.1C (unless due to Force Majeure) for which Contractor is entitled to relief under Section 4.8D, (9) Owner's failure to provide LNG Tanker loading opportunities as further set forth in Section 4.8E.1 (unless due to Force Majeure) for which Contractor is entitled to relief under such Section 4.8E.1, (10) Owner's failure to deliver the RLFC LNG Tanker for which Contractor is entitled to relief under Section 11.1D.2 or (11) a suspension of the Work for which Contractor is entitled to relief under Section 6.2A.7, then Contractor shall, with respect to any of the above, be entitled to request a Change Order for an adjustment in the Contract Price and an extension to the Train 1 Project Schedule if (w) such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule, (x) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, (y) Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the

Guaranteed Substantial Completion Date or the Required Final Completion Date and (z) Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements of Section 6.11. Any adjustment to the Contract Price shall be for reasonable, additional costs incurred by Contractor for such delay meeting the requirements of this Section 6.9, and any adjustments to the Contract Price or the Guaranteed Substantial Completion Date or Required Final Completion Date shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.9, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.9 shall be included in the Change Order incorporating such change in the Scope of Work.

6.10 **Delay**.

A. For the purposes of Sections 6.2A.1, 6.8 and 6.9, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

B. For the avoidance of doubt, the Parties recognize and agree that for the purposes of Section 6.8 and 6.9, a Work activity not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, Contractor is entitled to an extension to the Train 1 Project Schedule for those days of delay after which the non-critical path activity became a critical path activity, *provided that* such delay satisfies the other requirements under applicable Sections 6.8 and 6.9, including that such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date.

6.11 **Contractor Obligation to Mitigate Delay**. With respect to Sections 6.8 and 6.9, in no event shall Contractor be entitled to any adjustment to the Train 1 Project Schedule or adjustment to the Contract Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

6.12 **Separated Contract Price Adjustments in Change Orders**. Any adjustment by Change Order to the Contract Price which is made on a fixed price separated basis shall be separated pursuant to 34 Tex. Admin. Code Rule § 3.291(a)(13) to specify the applicable adjustments to the Tax Exempt Equipment Price, Taxable Equipment Price and Labor and Skills Price in accordance with Article 7. In addition, any such adjustment by Change Order to the Contract Price shall identify which component of the Contract Price that such adjustment is attributable to by adjusting the Common Contract Price Component and Train 1-Specific Contract Price Component as applicable. Change Orders shall also maintain an accounting of adjustments to the Common Development Work Compensation.

6.13 **Change Orders Affecting Common Development Work or the Common Development Work Compensation**. Notwithstanding anything to the contrary in this Article 6, no unilateral Change Order issued by Owner or mutual Change Order executed by the Parties, which relates to, impacts or modifies the Common Development Work (or any Changed Criteria

relating to the Common Development Work) or the Common Development Work Compensation, shall be effective without FLIQ2 providing written approval of such unilateral or mutual Change Order; *provided that*, FLIQ2's approval requirement of any such Change Order (i) may be expressly waived in writing by FLIQ2 or (ii) is not applicable if either (1) Contractor has the right to suspend or has suspended the Common Development Work pursuant to the Train 2 EPC Agreement due to FLIQ2's failure to pay undisputed amounts owed thereunder, (2) the Train 2 EPC Agreement has been terminated or (3) Owner is exercising its rights under Section 6.14 below. Approval by FLIQ2 of the unilateral or mutual Change Order may come in the form of FLIQ2 executing a substantially identical unilateral or mutual change order under the Train 2 EPC Agreement. In addition, unless Owner and FLIQ2 agree otherwise in writing, any mutual Change Order under this Agreement and mutual change order executed under the Train 2 EPC Agreement in accordance with the foregoing which adjusts the Common Development Work Compensation shall have such adjustment split equally between Owner and FLIQ2, and the Contract Price and Common Contract Price Component hereunder shall be adjusted accordingly in such Change Order to account for such change in the Common Development Work Compensation; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) pursuant to Section 6.14, then the adjustment to the Common Development Work Compensation shall be fully borne by Owner under this Agreement (and the Common Contract Price Component shall be adjusted accordingly). Further, unless Owner and FLIQ2 agree otherwise in writing, any unilateral Change Order executed in accordance with the foregoing which relates to, impacts or modifies the Common Development Work shall have the cost of such unilateral Change Order split equally between Owner under this Agreement and FLIQ2 under the Train 2 EPC Agreement; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) pursuant to Section 6.14, then Owner shall be fully responsible for the costs of such unilateral Change Order.

6.14 **Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement**. In the event Contractor, pursuant to Section 16.4 of the Train 2 EPC Agreement, submits a written notice to FLIQ2 for FLIQ2 to cure its failure to pay undisputed amounts due and owing under the Train 2 EPC Agreement, Contractor shall, simultaneously with its submission of the foregoing notice to FLIQ2, notify Owner in writing of the FLIQ2 notice. In addition, in the event Contractor receives a notice of termination from FLIQ2 of the Train 2 EPC Agreement (or termination of any Common Development Work thereunder) pursuant to Section 16.2 of the Train 2 EPC Agreement, or the Train 2 EPC Agreement is otherwise terminated by notice pursuant to its terms, Contractor shall, within five (5) Business Days, notify Owner in writing of such termination notice. Upon Owner's receipt of any of the foregoing written notices from Contractor, Owner shall have one hundred twenty (120) Days (or such other period of time as the Parties may agree upon in writing) to inform Contractor in writing whether Owner desires to assume the payment obligations, otherwise payable by FLIQ2 (assuming no termination of the Train 2 EPC Agreement), which are necessary to have the Common Development Work (that was being compensated under the Train 2 EPC Agreement) continue to be performed by Contractor; *provided that*, during such time period prior to Owner's response, Contractor shall have the right to suspend the Common Development Work to the extent allowed under the Train 2 EPC Agreement. In the event Owner elects to assume FLIQ2's payment obligations for the Common Development Work under this Agreement, Owner shall notify Contractor of such election in writing and submit with (or

promptly after) such notice a request for a Change Order in accordance with Section 6.1 identifying what portion of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) that Owner desires Contractor to continue to perform under this Agreement, less any other portions of the Common Development Work Owner desires that Contractor not continue to perform. Thereafter, Owner and Contractor shall proceed in accordance with Section 6.1 with a view towards executing a mutual Change Order that establishes an adjustment to the Train 1 Project Schedule and Common Contract Price Component reflective of the scope of the Common Development Work that Owner desires Contractor to complete under this Agreement; *provided that*, in the essence of time (and to mitigate or avoid additional costs or delays associated with a suspension in the Common Development Work), Owner may issue a unilateral Change Order to Contractor so that the Common Development Work (that was being compensated under the Train 2 EPC Agreement) may continue without any suspension or so that any then-suspended Common Development Work resumes. If Contractor has not suspended the performance of the Common Development Work (that was being compensated under the Train 2 EPC Agreement) in accordance with the Train 2 EPC Agreement and Owner elects to have any such Common Development Work performed under this Agreement pursuant to this Section 6.14, then Contractor shall not be entitled to any adjustment to the Train 1 Project Schedule. If Contractor has suspended the performance of the Common Development Work in accordance with the Train 2 EPC Agreement and Owner elects to have the Common Development Work (that was being compensated under the Train 2 EPC Agreement) performed under this Agreement pursuant to this Section 6.14, then (in addition to any adjustment to the Common Contract Price Component as a result of having such Common Development Work continue to be performed under this Agreement) Contractor shall be entitled to an adjustment to the Train 1 Project Schedule and Common Contract Price Component to the extent allowed under Section 6.9 herein as a result of such suspension of such Common Development Work. For purposes of clarity, the Parties acknowledge that if Owner does not desire to reduce the scope of the Common Development Work, then the adjustment to the Common Contract Price Component under the Change Order shall not exceed FLIQ2's unpaid share of the Common Development Work Compensation (except to the extent the Common Contract Price Component may be adjusted as a result of an adjustment to the Train 1 Project Schedule pursuant to the foregoing sentence). In the event that Owner elects to reduce the scope of the Common Development Work, Contractor shall use its best efforts to assist Owner in evaluating the effects of such reduced scope on the costs to perform the Work (including with respect to any change in quantities of materials or Equipment and the amount of labor, engineering or field in-directs) as well as the Baseline CPM Schedule, so that Owner can minimize the cost impact in assuming FLIQ2's payment obligations of performing the Common Development Work and shorten the Train 1 Project Schedule to reflect the decreased scope of the Common Development Work.

A. ***Elimination of Expansion Facility Dock from Common Development Work***. The Parties acknowledge that, in the event Owner desires to have the Common Development Work (that was being compensated under the Train 2 EPC Agreement) executed under this Agreement pursuant to Section 6.14, Owner, in its sole discretion, may wish to remove the Expansion Facility Dock from the scope of the Common Development Work (as part of its right to modify the scope of the Common Development Work pursuant to Section 6.14). In the event Owner so desires to remove the Expansion Facility Dock from the scope of the Common Development Work, the Parties

acknowledge that the reduction in the Common Development Work Compensation for the removal of such scope will be determined by subtracting (i) the reasonable value of the Work performed for the Expansion Facility Dock (under both this Agreement and the Train 2 EPC Agreement, using the terms of this Agreement and the Train 2 EPC Agreement as the basis for such valuation) from (ii) the Expansion Facility Dock Price, and then reducing the Common Development Work Compensation by such difference. This reduced Common Development Work Compensation shall then be used as part of the basis to determine the adjustment to the Common Contract Price Component pursuant to Section 6.14.

B. ***Other Amendments to Address Termination of Train 2 EPC Agreement***. In the event that the Parties intend to enter into a Change Order under this Section 6.14 as a result of the termination of the Train 2 EPC Agreement, the Parties acknowledge that such Change Order will include appropriate modifications to this Agreement in instances where requirements, obligations or events herein are conditioned upon events occurring under the Train 2 EPC Agreement, such as, for example, the timing of the Required Final Completion Date and the achievement of substantial completion (and the commencement of the Defect Correction Period) for Common Systems that were otherwise anticipated to achieve substantial completion under the Train 2 EPC Agreement pursuant to Section 11.2A.

6.15 **Adjustment to Schedule Bonus Date**. If the commencement, prosecution or completion of the Work is delayed by a Qualified Force Majeure Event, then Contractor shall be entitled to an adjustment to the Schedule Bonus Date for each Day of a Qualified Force Majeure Event; *provided that* the Schedule Bonus Date may not be adjusted under this Agreement more than thirty (30) Days in the aggregate. Any adjustment to the Schedule Bonus Date shall be recorded in a Change Order. Notwithstanding anything to the contrary in this Agreement, Contractor shall not be entitled to an adjustment to the Schedule Bonus Date for any other reason or cause whatsoever, including for Owner-caused delay.

ARTICLE 7
CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

7.1 **Contract Price**. Subject to the allocation of compensation for the Common Development Work as set forth in Section 7.2A, as compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement, Owner shall pay and Contractor shall accept Two Billion Five Hundred Eighty Five Million Eight Hundred Twenty One Thousand Eight Hundred Sixty-Four U.S. Dollars (U.S.$2,585,821,864) (the "***Contract Price***"). The Contract Price is subject to adjustment only by Change Order as provided in Article 6, and includes all Taxes, the Provisional Sums, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Contract Price does not include Texas state and applicable local sales and use taxes on Tax Exempt Equipment (which is subject to exemption as provided under Section 4.5A) and Taxable Equipment. The Contract Price is separated, in accordance with the definition of separated contract as defined in 34 Tex. Admin Code Rule § 3.291(a)(13), as follows:

A. Seven Hundred Thirty Nine Million Four Hundred Fifty Thousand Four Hundred Eighty-Eight U.S. Dollars (US$739,450,488) ("***Tax Exempt Equipment Price***") for Tax Exempt Equipment (subject to the allocation of compensation as set forth in Section 7.2A for the Tax Exempt Equipment included as part of the Common Development Work). Such Tax Exempt Equipment is listed in Attachment FF (which may be changed by Change Order in accordance with Section 4.5A.2). The Tax Exempt Equipment Price includes the cost of Tax Exempt Equipment, including markup, overhead, profit and freight, but excluding labor.

B. Three Hundred Ninety Four Million Six Hundred Thirty Three Thousand Two Hundred One U.S. Dollars (US$394,633,201) (*"**Taxable Equipment Price**")* for all Equipment (including materials) to be permanently installed in the Train 1 Project (other than Tax Exempt Equipment) ("***Taxable Equipment***"), subject to the allocation of compensation as set forth in Section 7.2A for Taxable Equipment included as part of the Common Development Work. The Taxable Equipment Price includes the cost of Equipment (including markup, overhead, profit, and freight if the Vendor provides the freight, but excluding labor). Such Taxable Equipment is listed in Attachment FF.

C. One Billion Four Hundred Fifty One Million Seven Hundred Thirty Eight Thousand One Hundred Seventy-Five U.S. Dollars (US$1,451,738,175) ("***Labor and Skills Price*"**) for all Work in this Agreement other than for Tax Exempt Equipment and Taxable Equipment (subject to the allocation of compensation as set forth in Section 7.2A for any portion of such Work that is included as part of the Common Development Work), which such Work includes all labor, engineering, design, services not subject to Texas state and applicable local sales and use taxes, installation, consumables, construction tools, freight, equipment rentals, overhead and all other items of whatever nature applicable to the Work. Excluding only the Tax Exempt Equipment Price and the Taxable Equipment Price, the Labor and Skills Price shall include all costs, charges and expenses of whatever nature applicable to the Work, including Taxes on all Work and Texas state and applicable local sales and use taxes on all Work other than on Tax Exempt Equipment and Taxable Equipment.

The Contract Price also includes Ninety Four Million Six Hundred Forty Two Thousand Four Hundred Sixty-Six U.S. Dollars (US$94,642,466) ("***Aggregate Provisional Sum***") for Provisional Sum Scope Items as further identified in Attachment DD. The Aggregate Provisional Sum is the aggregate of the Provisional Sums for each Provisional Sum Scope Item, as shown in Attachment DD. As shown in Attachment DD, each Provisional Sum for a Provisional Sum Scope Item is separated into (i) a price for Tax Exempt Equipment (ii) a price for Taxable Equipment, and (iii) a price for all other Work that is not included in the pricing for Tax Exempt Equipment or Taxable Equipment. (For the avoidance of doubt, those price separations identified in Attachment DD for the Provisional Sum Scope Items are incorporated into the separated price components identified in Sections 7.1A, B and C above.) In addition, each Provisional Sum for a Provisional Sum Scope Item is also itemized between Train 1-Specific Work and Common Development Work. The Contract Price will be subject to adjustment by Change Order with respect to the Aggregate Provisional Sum as set forth in Attachment DD. Such Change Order will also adjust the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 1-Specific

Contract Price Component, Common Contract Price Component and Common Development Work Compensation as appropriate.

7.2 **Contract Price Components.**

A. ***Common Contract Price Component***. The Parties acknowledge that the Train 2 Expansion is being developed by Contractor under the Train 2 EPC Agreement concurrently with the development of the Train 1 Expansion. As a result of this, the Common Development Work, which is a scope of the Work hereunder that is also required as part of the work under the Train 2 EPC Agreement, is being jointly funded by Owner (under this Agreement) and FLIQ2 (under the Train 2 EPC Agreement). The Parties agree that the compensation paid to Contractor for the performance of the Common Development Work is being split equally among Owner and FLIQ2 and that any adjustments to such compensation shall also be shared equally by Owner and FLIQ2 unless otherwise agreed by Owner and FLIQ2. The total compensation to be paid to Contractor for the Common Development Work is Two Billion Two Hundred Sixty One Million One Hundred Sixteen Thousand Seventy U.S. Dollars (U.S.$2,261,116,070) (the "***Common Development Work Compensation***"). The portion of the Contract Price allocated to Owner under this Agreement for such Common Development Work shall be one-half of the Common Development Work Compensation or One Billion One Hundred Thirty Million Five Hundred Fifty Eight Thousand Thirty-Five U.S. Dollars (U.S.$1,130,558,035) (the "***Common Contract Price Component***"), and Owner, subject to Section 6.14, shall only be obligated to pay Contractor for the Common Contract Price Component under this Agreement for the full performance of the Common Development Work (notwithstanding that the full scope of the Common Development Work is set forth in this Agreement). In accordance with Section 6.13 (and subject to the exceptions set forth therein), the Common Development Work Compensation shall only be adjusted by written agreement of Contractor, Owner and FLIQ2 (which such written agreement can be memorialized via a Change Order under this Agreement executed by Owner and Contractor and a corresponding change order under the Train 2 EPC Agreement executed by FLIQ2 and Contractor). The Common Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Common Development Work).

B. ***Train 1-Specific Contract Price Component***. The portion of the Contract Price allocated to the Train 1-Specific Work is One Billion Four Hundred Fifty Five Million Two Hundred Sixty Three Thousand Eight Hundred Thirty U.S. Dollars (U.S.$1,455,263,830) (the "***Train 1-Specific Contract Price Component***"). The Train 1-Specific Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Train 1-Specific Work).

7.3 **Interim Payments**.

A. ***Payments***. Progress payments shall be made by Owner to Contractor in accordance with the Payment Milestone Schedule (as may be amended by Change Order pursuant to Section 6.1B or 6.2C) set forth in Schedule C-1, which allocates the payment of the Contract Price upon completion of Payment Milestones as set forth in Schedule C-1, *provided that* Contractor is otherwise in material compliance with the terms of this Agreement. Owner shall also make payments to Contractor for any unilateral Change Orders issued in accordance with Section 6.1C or 6.2D. Each payment shall be subject to Owner's right to withhold payments under this Agreement, including Section 5.4F, 7.6 and 13.2. Payments shall be made in U.S. Dollars to an account designated by Contractor. The Payment Milestone Schedule shall be amended only by Change Order pursuant to this Agreement.

B. ***Invoices for Train 1-Specific Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner an Invoice for all Train 1-Specific Work Payment Milestones completed during the prior Month, if any. The Train 1-Specific Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Train 1-Specific Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Train 1-Specific Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Train 1-Specific Work Payment Milestones and Train 1-Specific Work unilateral Change Order charges, other than the Invoice for final payment of Train 1-Specific Work under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Train 1-Specific Work unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Train 1-Specific Work.

C. ***Invoices for Common Development Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner and FLIQ2 an Invoice for all Common Development Work Payment Milestones completed during the prior Month, if any. The Common Development Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Common Development Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Common Development Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Common Development Work Payment Milestones and Common Development Work unilateral Change Order charges, other than the Invoice for final payment of Common Development Work under this Agreement, shall be in the form of Schedule I-2, and shall include all documentation supporting its request for payment as

required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Common Development Work unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner and FLIQ2 hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Common Development Work. For the avoidance of doubt, and notwithstanding anything to the contrary herein, Owner and Contractor agree and acknowledge that, notwithstanding that the Common Development Work will be jointly invoiced to Owner and FLIQ2, (i) Owner shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as set forth herein, (ii) FLIQ2 shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as defined in the Train 2 EPC Agreement, and (iii) Owner shall not be responsible for paying for FLIQ2's portion of the Common Development Work Compensation except as provided for in Section 6.14. FLIQ2 shall not have any obligations to pay any amounts under this Agreement.

D. ***Interim Lien and Claim Waivers***. Each set of Monthly Invoices received by Owner under this Agreement prior to Final Completion shall be accompanied by (i) fully executed Interim Lien and Claim Waivers from Contractor in the forms of Schedules K-1 and K-2 for all Work performed through the date for which payment is requested, (ii) fully executed Interim Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Interim Lien and Claim Waivers for all Major Sub-subcontractors requested in substantially the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested. Interim Lien and Claim Waivers, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Interim Lien and Claim Waivers only if they have performed Work not covered by a previous Interim Lien and Claim Waiver. Submission of all Interim Lien and Claim Waivers is a condition precedent to payment of any Invoice.

E. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement, including Retainage as set forth in Section 7.13), subject to Owner's several liability with respect to Invoices for Common Development Work, shall be due and payable thirty (30) Days after it, and all documentation required under this Agreement, is received by Owner. If an Invoice is disputed by Owner, then payment shall be made for all undisputed amounts owed by Owner and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts shall be made as soon as such dispute is resolved.

F. ***Maximum Cumulative Payments***. The Parties have agreed upon and set forth in Schedule C-2 a schedule of the maximum cumulative amounts ("***Maximum Cumulative Payment Schedule***") that Contractor is allowed to invoice Owner at any one time during the Train 1 Project for the completion of the Work, regardless of whether

Contractor has completed Work (via completion of Payment Milestones) that represents amounts greater than the Maximum Cumulative Payment Schedule. The Maximum Cumulative Payment Schedule sets the maximum cap on invoiced amounts, but does not set a minimum amount that Contractor may invoice Owner, as Sections 7.3A and 7.3B specify the procedure for determining the amount of each Invoice. The Maximum Cumulative Payment Schedule shall be adjusted only by Change Order executed by both Parties.

7.4 **Final Completion and Final Payment for Train 1-Specific Work and Common Development Work**. Upon Final Completion, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit fully executed final Invoices for the Train 1-Specific Work and Common Development Work in the forms attached hereto as Schedules I-3 and I-4, respectively, along with (i) a statement summarizing and reconciling all previous Train 1-Specific and Common Development Work Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Equipment, and any other indebtedness connected with the Work have been paid, including Texas state and applicable local sales and use taxes which Contractor is required under this Agreement to pay, (iii) fully executed Final Lien and Claim Waivers from Contractor in the forms of Schedules K-5 and K-6, (iv) fully executed Final Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-7 and K-8, (v) if requested by Owner, fully executed Final Lien and Claim Waivers from each Major Sub-subcontractor in substantially the forms set forth in Schedules K-7 and K-8, and (vi) to the extent not previously provided to Owner, Retainage Letters of Credit that, in the aggregate, equal the full amount of Retainage to be withheld by Owner under this Agreement. No later than thirty (30) Days after receipt by Owner of such final Invoices and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this Agreement, pay Contractor the balance of the Contract Price (including the Retainage, if Retainage Letters of Credit in the full amount of Retainage have been provided by Contractor).

7.5 **Payments Not Acceptance of Work**. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.6 **Payments Withheld**. In addition to disputed amounts set forth in an Invoice, Owner may, in addition to any other rights under this Agreement, at law or in equity and upon fifteen (15) Days prior written notice to Contractor, withhold payment on an Invoice or a portion thereof, or collect on the Letter of Credit, in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to:

A. Defective Work not remedied in accordance with this Agreement;

B. stop payment notices, liens or other encumbrances on all or a portion of the Site, the Work or the Facility, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, *provided that*

Owner has made payment to Contractor of all undisputed amounts due to Contractor in accordance with the terms of this Agreement;

C. any breach by Contractor of any material provision of this Agreement;

D. the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards;

E. amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information;

F. Delay Liquidated Damages which Contractor owes under the terms of this Agreement;

G. failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts, excluding the right of Contractor to withhold payments to Subcontractors as provided under the terms of the applicable Subcontract;

H. damage or loss to the Existing Facility caused by Contractor or any of its Subcontractors or Sub-subcontractors, subject to the limitations of Contractor's liability for such damage or loss as set forth in Section 20.2; or

I. any other costs or liabilities which Owner has incurred for which Contractor is responsible, unless otherwise covered by insurance or bond in a form reasonably satisfactory to Owner, *provided that* Contractor is in compliance with its indemnity, hold harmless and defense obligations under this Agreement.

Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee or bond reasonably satisfactory to Owner in the amount of the withheld payment.

7.7 **Interest on Late Payments**. Any amounts due but not paid hereunder shall bear interest at the lesser of (i) an annual rate equal to the prime rate published by the Wall Street Journal plus two percent (2%), or (ii) the maximum rate permitted under Applicable Law.

7.8 **Work Breakdown Structure**. Within sixty (60) Days after the NTP, Contractor shall deliver to Owner for Owner's written approval a detailed breakdown of the Work by activity, with each such activity having a written description and hierarchal coding ("***Work Breakdown Structure***"). The Work Breakdown Structure shall be consistent with the Baseline CPM Schedule and the form of Work Breakdown Structure in Schedule C-3. After approval by Owner of such Work Breakdown Structure, Contractor shall have the right during the course of the Train 1 Project and upon Owner's written approval, to modify the Work Breakdown Structure, *provided that* at all times it remains consistent with the Baseline CPM Schedule.

Contractor shall promptly provide Owner with copies of any revised Work Breakdown Structure.

7.9 **Payment Error**. If an error is made in connection with a payment, and such payment is an overpayment, the overpayment shall be reconciled with the next monthly Invoice, or if no further invoices are planned or the amount of such Invoices are not estimated to be of an amount to properly reconcile the error, then the Party receiving such payment in error shall promptly refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Owner under this Agreement, (i) if Owner discovers that a Payment Milestone was not in fact completed, or that Work associated with an Invoice contained Defective Work, then Owner may, at its sole discretion and upon prior written notice to Contractor, offset the amount of the payment against future payments or collect on the Letter of Credit in the amount of the payment until such Payment Milestone or correction of the Defective Work is achieved or (ii) if Owner discovers that any amounts paid by it to Contractor in a preceding Month was incorrect or lacked sufficient or accurate supporting information, then Owner may, at its sole discretion but only after giving prior written notice to Contractor, offset such amounts against future payments or collect on the Letter of Credit for such amounts until sufficient and accurate supporting information is provided pursuant to Section 7.3.

7.10 **Currency**.

A. Unless otherwise specified, all amounts contained herein are in and shall be paid in U.S. Dollars.

B. Foreign Exchange Parity.

As of the Effective Date, the Contract Price assumes the following foreign (non-U.S. Dollar) currency at the listed value and exchange rate to the U.S. Dollar:

FOREIGN CURRENCY	**VALUE IN FOREIGN CURRENCY**	**EXCHANGE RATE**
EURO	€ 100,950,865	1.301 USD TO EURO

On the date Owner issues NTP, the Contract Price shall be subject to an upward or downward adjustment by Change Order to account for currency fluctuations. This adjustment will be determined by multiplying (a) the difference of the exchange rate as quoted by the Wall Street Journal on the following website:

http://online.wsj.com/public/page/news-currency-currencies-trading.html

for the closing exchange rate on the date Owner issues NTP (the "***NTP Exchange Rate***") and the above listed exchange rate ("***Contract Exchange Rate***") by (b) the corresponding value in foreign currency listed above ("***Value of Foreign Currency***").

For clarity, the Contract Price adjustment shall be determined by the following formula:

$$Adjustment = [Value\ of\ Foreign\ Currency\ x\ [NTP\ Exchange\ Rate - Contract\ Exchange\ Rate]]$$

The Change Order implementing the foregoing adjustment shall also further itemize the adjustment, as applicable, into the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 1-Specific Contract Price Component, Common Contract Price Component and Common Development Work Compensation.

7.11 **Conditions Precedent to Payment**. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner, and is maintaining (i) the Parent Guarantee and the Letters of Credit in accordance with Section 21.16 and Article 9, and (ii) the insurance policies in accordance with Article 9.

7.12 **Payments to Subcontractors**. Contractor agrees and acknowledges that, if FLIQ2 withholds, offsets or otherwise does not make a payment to Contractor under the Train 2 EPC Agreement, Contractor shall not utilize payments made by Owner under this Agreement to compensate Subcontractors for work performed under the Train 2 EPC Agreement; *provided that* payments made under this Agreement to Contractor can be utilized to pay Subcontractors to the extent such payment arises from Owner's portion of the Common Development Work Compensation.

7.13 **Retainage and Retention Letter of Credit**.

A. ***Retainage***. Owner shall withhold from each Invoice submitted on or after NTP from Contractor an amount equal to two and one-half percent (2.5%) of the amount of each Train 1-Specific Invoice and one and one-quarter percent (1.25%) of the amount of each Common Development Work Invoice (collectively, the "***Retainage***"); *provided that*, if Owner takes over the full scope and payment of the Common Development Work in accordance with Section 6.14, Owner may withhold two-and-one-half percent (2.5%) from each Common Development Work Invoice as part of the Retainage. For amounts paid by Owner to Contractor prior to NTP that are credited against the Contract Price, Retainage (in accordance with the ratios set forth above) for such amounts shall be withheld from the first payments made on or after NTP (in addition to any other Retainage allowed to be withheld from such first payments on or after NTP). Subject to Owner's rights under the Agreement, Retainage withheld from Invoice payments shall be released by Owner to Contractor as follows: (i) upon the first anniversary of Substantial Completion, Owner shall release a portion of the Retainage while continuing to withhold Retainage equal to the sum of (1) one and one-half percent (1.5%) of the original Contract Price plus (2) the estimated cost of correcting any outstanding Defects then-existing at such time; and (ii) upon the expiration of the Defect Correction Period, Owner shall release all remaining Retainage. Owner shall release Retainage based upon the foregoing sentence promptly after the passing of the event prompting such release but in any event within thirty (30) Days after such event and receipt from Contractor for an invoice for the release of such Retainage. Because Retention Letters of Credit may be substituted for Retainage as set forth in Sections 7.12B and 9.3, the aggregate value of the Retainage

withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in this Section A and reductions to the Retention Letters of Credit and releases of Retainage shall correspond in time, and in the amounts, as set forth above in this Section A.

B. ***Retention Letter of Credit as a Substitute for Retainage***. At their sole discretion, Contractor, CB&I or Zachry may elect to substitute a Retention Letter of Credit, pursuant to Section 9.3, in exchange for Owner releasing previously withheld Retainage, or for Owner to forego the withholding of Retainage from the payment of an Invoice, in the amount of such Retention Letter of Credit.

1. With respect to previously withheld Retainage, if Contractor, CB&I or Zachry make an election to provide Owner with a Retention Letter of Credit, Owner shall release previously withheld Retainage promptly to the applicable party in the amount of the Retention Letter of Credit provided, after receipt of such Retention Letter of Credit and an invoice for the Retainage release (but in any event within thirty (30) Days after receipt of such Retention Letter of Credit and invoice).

2. With respect to Retainage to be withheld from a prospective Invoice payment, if Contractor, CB&I or Zachry provide Owner with a Retention Letter of Credit seven (7) or more Days prior to the payment due date of such Invoice (and such Retention Letter of Credit has an effective date no later than Owner's Invoice payment due date), Owner, unless restricted from doing so by its financing documents with its Lenders, shall not withhold that portion of the Retainage (in the amount of such Retention Letter of Credit) from the Invoice payment. In the event Contractor, CB&I or Zachry provide a Retention Letter of Credit as set forth in the 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 7.13B (including any Retainage not withheld pursuant to Section 7.13B.2) shall not exceed the aggregate amount of Retention Letters of Credit which have been provided to Owner by Contractor, CB&I or Zachry.

7.14 ***Payments by FLIQ CF***. Notwithstanding anything to the contrary set forth herein and without limiting the generality of Section 8.1C, FLIQ CF has the right, but not the obligation, to pay to Contractor, and upon such payment Contractor shall accept, on behalf of Owner, all or any portion of the Contract Price as the same shall become due in accordance with this Agreement.

ARTICLE 8
TITLE AND RISK OF LOSS

8.1 **Title**.

A. ***Clear Title***. Subject to Contractor's receipt of payment of undisputed amounts when due under this Agreement, Contractor warrants and guarantees to Owner and FLIQ CF that Owner and FLIQ CF, as applicable, will receive good and legal title to and ownership of the Work and the Train 1 Expansion shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner and FLIQ CF, as applicable.

B. ***Title to Work***. Title to all or any portion of the Work (other than Work Product) shall pass to either Owner or FLIQ CF (as determined pursuant to Section 8.1C) upon the earlier of (i) payment therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Train 1 Expansion. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right of Owner under the Agreement.

C. ***Title Passage to FLIQ CF***. Title to the Train 1-Specific Work shall pass from Contractor to Owner in accordance with the timing set forth in Section 8.1B. Title to the Common Development Work shall pass from Contractor directly to FLIQ CF in accordance with the timing set forth in Section 8.1B. Notwithstanding passage of title in accordance with the foregoing, the Parties and FLIQ CF acknowledge that they will be signatories to an Equipment Sharing Agreement and that title to items of Equipment may pass among Owner, FLIQ CF and the other signatories to such Equipment Sharing Agreement in accordance with the terms therein. FLIQ CF shall be a signatory to this Agreement solely for purposes of taking title to the Common Development Work in accordance with this Section 8.1C and those other purposes expressly stated in the signature block for FLIQ CF included in this Agreement and shall not assume any other obligations under this Agreement to Contractor (including any obligation to pay any portion of the Contract Price, notwithstanding its right to make payments under Section 7.14) as a result of its execution of the Agreement and receipt of title of the Work, and Contractor waives any right to seek any compensation from FLIQ CF with respect to the Work or otherwise under this Agreement, at law or in equity.

8.2 **Risk of Loss**.

A. ***Prior to Substantial Completion***. Notwithstanding passage of title as provided in Section 8.1 of this Agreement, and except as otherwise stated in Section 8.2A.1, Contractor shall bear the risk of physical loss and damage to the Train 1 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Expansion Facility) as follows: (i) with respect to the Train 1 Expansion (other than the Expansion Facility Dock, which is not required to achieve Substantial Completion simultaneously with the Train 1 Expansion in accordance with Section 11.2A), Contractor shall bear the risk of physical loss and damage until Substantial Completion of the Train 1 Expansion is achieved; (ii) with

respect to the Expansion Facility Dock, Contractor shall continue to bear the risk of physical loss and damage for the Expansion Facility Dock until such risk of physical loss and damage is transferred to FLIQ2 pursuant to the Train 2 EPC Agreement, *provided*, if the Train 2 EPC Agreement is terminated in accordance with the rights set forth therein prior to such transfer of risk of physical loss and damage to the Expansion Facility Dock, then, as between Owner and Contractor, such risk of physical loss and damage to the Expansion Facility Dock shall transfer to Owner upon Final Completion of this Agreement.

1. Notwithstanding Section 8.2A above, Contractor shall not be liable to Owner for any such physical loss or damage if and to the extent: (a) such physical loss or damage is not insured under the builder's risk policy or marine cargo insurance policy required to be provided by Owner under Sections 2.A.1 and 2.A.2 of Attachment O to this Agreement because of Owner's failure to maintain such policies in full force and effect at all times required under this Agreement, (b) Owner receives payment from the insurance company or companies under such policies for such physical loss or damage, (c) such physical loss or damage is not insured under the builder's risk policy because of an exclusion specified in such policy and Contractor is not otherwise liable to Owner pursuant to Section 8.2A.2, (d) the value of such physical loss or damage exceeds the named windstorm, flood or earthquake sublimit(s) as a result of damage or loss caused by a named windstorm, flood or earthquake event, (e) the value of such physical loss or damage exceeds the monetary policy limits (including any sublimits or aggregate limits) of the builder's risk policy or (f) the physical loss or damage is caused by (1) ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste, (2) nuclear weapons material, (3) war, invasion, act of foreign enemy hostilities or warlike operations, civil war, rebellion, revolution or insurrection, (4) act of any person in connection with activities directed towards the overthrow by force of the government, (5) permanent or temporary dispossession resulting from confiscation, nationalization, commandeering or requisition by any lawfully constituted authority or (6) an act of terrorism (as defined in the builder's risk policy); *provided, however*, with respect to deductibles under the builder's risks and marine cargo insurance, Contractor shall remain liable to the Owner for the policy deductibles, regardless of fault, but not to exceed One Million Dollars (U.S.$1,000,000) per occurrence for such deductibles as specified in Section 2.B of Attachment O; *provided further, however*, with respect to the foregoing proviso, if Contractor is also liable to FLIQ2 for the builder's risks or marine cargo insurance policy deductibles under Section 8.2A.1 of the Train 2 EPC Agreement for the same occurrence, then Contractor's total liability, in the aggregate, for such deductibles under this Agreement and the Train 2 EPC Agreement shall not exceed One Million Dollars (U.S.$1,000,000) per occurrence, with such liability being credited equally between Owner and FLIQ2 (unless Owner and FLIQ2 agree otherwise in writing). This Section 8.2A.1 shall not be interpreted to relieve Contractor of any of its other obligations or liabilities under the Agreement, including its obligations with respect to Defective Work and Corrective Work.

2. To the extent of Contractor's, Subcontractor's or Sub-subcontractor's fault, Contractor shall be liable to Owner for physical loss or damage that is not covered by the builder's risk policy to be procured by Owner under this Agreement because of any of the following exclusions to such builder's risk policy: aircraft, watercraft or vehicle, cash and money, wear, tear, erosion and corrosion, inventory and stocktaking, defects in design, plan, specification, material or workmanship, penalties and consequential loss, pollution and contamination arising out of a covered perils, contractor's plant and equipment, transmission and distribution lines, wet works, hydrocarbons, piling, electronic data, asbestos or toxic mold. Notwithstanding anything to the contrary herein, the Parties agree and acknowledge that, in the event that an insurance claim for physical loss or damage to the Train 1 Expansion is denied by the builder's risk policy insurer as a result of an exclusion listed in this Section 8.2A.2, Owner shall have the right to elect, at its own discretion, whether to dispute any such denial of the claim; *provided, however*, in the event of Owner's election to not dispute such denial of the insurance claim, such election shall not prejudice Contractor's right to dispute same with the insurer as an additional insured under the builder's risk policy or any argument by Contractor that such exclusion was not applicable in any Dispute with Owner arising out of a claim by Owner against Contractor that Contractor is liable to Owner for the physical loss or damage pursuant to this Section 8.2A.2.

3. With respect to any physical loss or damage to the Train 1 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Train 1 Expansion), Contractor shall be entitled to a Change Order adjusting the Guaranteed Substantial Completion Date and Required Final Completion Date if and to the extent permitted under Section 6.8A.

4. To the extent Contractor does not bear the risk of physical loss or damage as described in Section 8.2A, then with respect to such physical loss or damage to the Train 1 Expansion, Contractor shall be entitled to a Change Order adjusting the Contract Price for: (i) the cost to repair, reconstruct or replace the damaged Train 1 Expansion (which such adjustment shall account for updated progress payments to Contractor to maintain cash flows consistent with the payment philosophies underlying the original progress payment terms and Maximum Cumulative Payment Schedule); (ii) the cost of debris removal, and (iii) to the extent recovered by Owner under insurance provided by Owner under Section 2.A.1 of Attachment O or to the extent otherwise directed by Owner in writing, the cost to accelerate or expedite such repair, reconstruction or replacement and stand-by costs, if any.

B. ***After Substantial Completion***. As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train 1 Expansion and each component thereof (other than the Expansion Facility Dock, which is not required to achieve Substantial Completion simultaneously with the Train 1 Expansion in accordance

with Section 11.2A) after Substantial Completion of the Train 1 Expansion is achieved. With respect to the Expansion Facility Dock, the risk of physical loss and damage to the Expansion Facility Dock shall pass from Contractor to FLIQ2 in accordance with the Train 2 EPC Agreement; *provided that*, if the Train 2 EPC Agreement is terminated prior to the transfer of risk of physical loss and damage of the Expansion Facility Dock from Contractor to FLIQ2, then, as between Owner and Contractor, the risk of physical loss and damage to the Expansion Facility Dock shall be borne by Owner after achievement of Final Completion of this Agreement. 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.

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.

B. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage.

C. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

D. ***Unavailable Insurance***. If any insurance (including the limits, coverage, endorsements, policy terms, conditions or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Owner and Contractor shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two (2) independent advisors, including insurance brokers, of recognized international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the

required amount or coverage is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party; and *provided further* that such waiver is permitted pursuant to any agreements between Owner and its Lenders. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

9.2 **Irrevocable Standby Letter of Credit**. Owner shall provide Contractor with at least five (5) Business Days prior written notice of Owner's intent to issue NTP. Prior to Owner's issuance of NTP (or, if Owner has not provided at least 5 Business Days prior written notice of its issuance of NTP in accordance with the foregoing sentence, then within 5 Business Days after receipt of such notice), and as a condition precedent to Contractor's right to receive any payments under this Agreement, except payments expressly permitted pursuant to an LNTP, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of One Hundred and Twenty-Two Million Five Hundred Thousand U.S. Dollars (U.S.$122,500,000), and in the form of Schedule R-1, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a long-term local currency issuer credit rating of at least A- by Standard & Poor's and a long-term credit rating of at least A3 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, and at Owner's written request, Contractor shall replace the Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-1 specifying the general nature of such Default or breach or Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Letter of Credit that it has decided not to extend the Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a commercial bank meeting the requirements in this Section 9.2. Upon the achievement of Substantial Completion of the Train 1 Expansion, and Owner's acceptance and execution of the

Substantial Completion Certificate in accordance with this Agreement, Owner shall return the original Letter of Credit, and any Letter of Credit amendments that have been issued, to the commercial bank that issued the Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-1 stating the Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Letter of Credit shall occur no later than five (5) Business Days after Owner's acceptance of Substantial Completion of the Train 1 Expansion. The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the Substantial Completion of the Train 1 Expansion. Partial drawings are permitted under the Letter of Credit. In addition, the Parties acknowledge that Contractor may fulfill the Letter of Credit requirements set forth in this Section 9.2 through multiple, coexistent Letters of Credit issued to Owner with the applicants of those Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Letters of Credit, in the aggregate, equal the dollar values required herein.

9.3 **Retention Letter of Credit**. Owner may withhold Retainage as provided under Section 7.13. As a condition precedent to Contractor's right to receive Retainage withheld by Owner, Contractor, in its sole discretion at any time during the course of the Train 1 Project, may deliver to Owner a retention letter of credit, naming Owner as beneficiary, in an amount not to exceed the cumulative amount withheld by Owner under Section 7.13A, in the form of Schedule R-2, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the retention letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Retention Letter of Credit***"). If at any time the rating of the commercial bank that issued the Retention Letter of Credit falls below either of the Investment Grade ratings, and at Owner's written request, Contractor shall replace the Retention Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the Retention Letter of Credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Retention Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-2 specifying the general nature of such Default or breach, Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Retention Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Retention Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Retention Letter of Credit that it has decided not to extend the Retention Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Retention Letter of Credit for all remaining funds in the Retention Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then

current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Retention Letter of Credit and from a commercial bank meeting the requirements in this Section 9.3. Partial drawings are permitted under the Retention Letter of Credit. The Retention Letter of Credit shall remain in full force and effect from the issuance of the Retention Letter of Credit through the expiration of the Defect Correction Period under this Agreement. After expiration of the Defect Correction Period, Owner shall return the original Retention Letter of Credit, and any Retention Letter of Credit amendments that have been issued, to the commercial bank that issued the Retention Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-2 stating the Retention Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Retention Letter of Credit shall occur no later than five (5) Business Days after expiration of the Defect Correction Period. The amount of the Retention Letter of Credit shall be reduced on the same basis that Retainage is released pursuant to Section 7.13A. No later than five (5) Business Days after the passage of an event prompting a release of Retainage as set forth in Section 7.13A, Owner shall provide the commercial bank that issued the Retention Letter of Credit with written notice of such event in the form of Annex VI of Schedule R-2 stating that such event has occurred. For purposes of clarity, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in Section 7.13A. In addition, the Parties acknowledge that Contractor may fulfill the Retention Letter of Credit requirements set forth in this Section 9.3 through multiple, coexistent Retention Letters of Credit issued to Owner with the applicants of those Retention Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Retention Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Retention Letters of Credit, in the aggregate, equal the dollar values required herein (including any reductions in value as set forth herein).

9.4 **Financial Statements**. As soon as available, but in any event within sixty (60) Days after the end of each fiscal quarter of Zachry Guarantor and CB&I Guarantor, Contractor shall deliver to Owner the unaudited and consolidated balance sheet of Zachry Guarantor and CB&I Guarantor as of the end of such quarter, the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of each of Zachry Guarantor and CB&I Guarantor, subject to normal year-end audit adjustments. As soon as available, but in any event not later than one-hundred twenty (120) Days after the end of each fiscal year of Zachry Guarantor and CB&I Guarantor, Zachry Guarantor and CB&I Guarantor shall deliver to Owner a copy of the audited consolidated balance sheets at the end of each such year as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 9.4 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

ARTICLE 10
OWNERSHIP OF DOCUMENTATION

10.1 **Ownership of Work Product**.

A. Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Train 1 Expansion

done by Contractor for Owner (including any work done by Contractor or any of its Affiliates under the FEED Agreement or any other agreements between the Parties related to the Train 1 Project), Contractor or its Affiliates, Subcontractors or Sub-subcontractors will create or have created for this Train 1 Project certain plans, operating and maintenance procedures and manuals, Drawings, Specifications, calculations, or other technical tangible manifestations of Contractor's efforts (whether written or electronic) (hereinafter individually or collectively referred to as "***Work Product***"). Subject to Sections 10.1A.1 and 10.1A.2 below, Work Product prepared by Contractor or its Affiliates, Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Contractor, its Affiliates, Subcontractors, Sub-subcontractors or any other Person. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees that such ownership and copyrights in the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

1. If Contractor, using commercially reasonable efforts, is unable to procure ownership of the Work Product for Owner as set forth in Section 10.1A above from any Subcontractor and Sub-subcontractor, then, at a minimum, Contractor shall procure for Owner and its Affiliates from such Subcontractors and Sub-subcontractors an irrevocable, perpetual and royalty-free license (including with right to assign its right without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in the Facility) to use, disclose, modify and copy such Work Product for any purpose relating to the Expansion Facility.

2. For the avoidance of doubt, Contractor shall not be required to obtain rights to Work Product as set forth in Section 10.1A above from Subcontractors and Sub-subcontractors providing bulk commodities or generic "off-the-shelf" Equipment.

3. The Parties acknowledge that, with respect to Work Product relating to the Common Development Work, the rights, title and interest to such Work Product (or licenses, to the extent provided for in Section 10.1A.1) shall also vest in FLIQ2 and its affiliates in accordance with the Train 2 EPC Agreement as well as FLIQ CF.

B. Notwithstanding Section 10.1A, as among Owner, Zachry, CB&I and Contractor, Zachry and CB&I shall retain ownership of all proprietary intellectual property rights owned by Zachry or CB&I and developed by Zachry or CB&I outside this Agreement, the FEED Agreement or any other agreements between the Parties (or their Affiliates) related to the Expansion Facility (hereinafter referred to as "***Contractor's***

Intellectual Property"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in this Section 10.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary intellectual property owned and developed by Contractor's Equipment Subcontractors or Equipment Sub-subcontractors for any project other than the Expansion Facility ("***Third Party Proprietary Work Product***"). With respect to such Contractor's Intellectual Property and Third Party Proprietary Work Product relating to the Work or the Expansion Facility, Contractor hereby grants Owner and its Affiliates an irrevocable, perpetual and royalty-free license (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use, disclose, modify and copy such Contractor's Intellectual Property and Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided, however*, if Owner uses Third Party Proprietary Work Product or Contractor Intellectual Property for purposes other than those relating to the Expansion Facility, and Owner does not procure the necessary ownership, license or rights for such use, Owner shall indemnify, defend and hold harmless the Contractor Indemnified Parties with respect to any claims, damages, losses, liabilities or other causes of action arising from such use. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 10.1 except as provided in Section 10.1A.2 above.

10.2 **Return/Delivery of Certain Property**. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Train 1 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product and (ii) Contractor's Equipment Subcontractors and Equipment Sub-subcontractors may retain any Work Product generated by them so long as Owner has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets (native and .pdf files) of documents on CD-ROM for those Drawings and Specifications generated using CAD or other digital means.

10.3 **Contractor's License in Work Product**. Owner and FLIQ CF hereby, on behalf of themselves and their Affiliates, grant to Contractor an irrevocable, perpetual and royalty-free license to use, modify and copy the Work Product for any other project, except for any of the following which may be in such Work Product: (i) any proprietary intellectual property rights owned by Owner or any Affiliate of Owner; (ii) any proprietary intellectual property rights in which Owner or an Affiliate of Owner has a license; or (iii) any proprietary intellectual property rights developed during the performance of this Agreement, the FEED Agreement or any other agreement between the Parties relating to the Expansion Facility, which was derived in whole or part by participation of Owner or any Owner Affiliate. As a condition of using on another project any Work Product which Contractor has a license under this Section 10.3, Contractor shall remove from the Work Product any reference to the Expansion Facility, Owner or FLIQ CF. The foregoing license and rights to use any Work Product granted to Contractor shall be subject to any limitations imposed on Contractor by third parties which have any ownership interest in such Work Product or any proprietary intellectual property embedded therein, and Contractor shall indemnify, defend and hold the Owner Indemnified Parties harmless with respect to any claims, damages, losses, liabilities or other causes of action which relate to Contractor's use of any Work Product for any purposes other than for the Expansion Facility.

10.4 **Owner Provided Documents**. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor 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 Owner upon the earlier of Substantial Completion of the Train 1 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media and (ii) if any such Owner-provided documents are also being utilized by Contractor for purposes of the Train 2 EPC Agreement, such documents may continue to be utilized for such purposes and returned to Owner upon the earlier of substantial completion of the Train 2 Expansion in accordance with the Train 2 EPC Agreement or termination of the Train 2 EPC Agreement.

ARTICLE 11
COMPLETION MILESTONES

11.1 **Notice and Requirements for RFSU and RLFC**.

A. ***Requirements of RFSU***. No later than eighteen (18) months after issuance of NTP, Contractor shall provide to Owner for its review and comment detailed RFSU requirements, in the form of checklists, for each Equipment system or subsystem in such designated portion of the Work. Once Contractor has incorporated all of Owner's comments and/or proposed revisions to the RFSU checklists, such RFSU checklists shall form a part of the requirements for achieving RFSU. Contractor shall comply with all requirements for RFSU set forth in this Agreement, including those requirements set forth in the definition of the term RFSU, Attachment A and Attachment V and the RFSU checklists agreed by Owner and Contractor pursuant to this Section. Upon RFSU of each system or subsystem of Equipment, Contractor shall certify to Owner in the form of Attachment L for RFSU of such system or subsystem ("***RFSU Certificate***") that all requirements under this Agreement for Ready For Start Up have occurred, including all of the requirements specified in the applicable RFSU checklist have been completed. The RFSU Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RFSU have been met.

B. ***Notice and Requirements of RLFC***. Without limitation of the foregoing or any other scheduling requirements contained in this Agreement, Contractor shall give Owner two hundred seventy (270) Days' prior written notice of a thirty (30) Day period in which it expects to achieve RLFC for the Train 1 Expansion (the "***First RLFC Window Period***"). Ninety (90) Days after such initial notice, Contractor shall give Owner a second written notice specifying a twenty one (21) Day period in which it expects to achieve RLFC (the "***Second RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Second RLFC Window Period shall be the latest possible twenty one (21) Day period within the First RLFC Window Period. Sixty (60) Days after such second notice, Contractor shall give Owner a third written notice specifying a fourteen (14) Day period falling within the Second RLFC Window Period in which it expects to achieve RLFC (the "***Third RLFC Window Period***"), *provided that* if

Contractor fails to give timely notice of same, the Third RLFC Window Period shall be the latest possible fourteen (14) Day period within the Second RLFC Window Period. Sixty (60) Days after such third notice, Contractor shall give Owner a fourth written notice specifying a five (5) Day period falling within the Third RLFC Window Period in which it expects to achieve RLFC (the "***Fourth RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Fourth Window Period shall be the latest possible five (5) Day period within the Third RLFC Window Period. Owner shall be entitled to rely on such first, second, third and fourth notices in scheduling the LNG Tankers for the purpose of loading the first cargo of LNG for the Train 1 Expansion. In the event that Contractor at any time becomes aware or has reason to believe that its ability to achieve RLFC will be delayed beyond the applicable window period specified in the then current written notice given pursuant to this Section 11.1B, Contractor will immediately give Owner written notice of such fact and of the date on which Contractor then expects to achieve RLFC, but such notice shall not relieve Contractor of its responsibility to achieve RLFC within the then current window period. Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to achieve RLFC in accordance with this Section 11.1B. Contractor shall comply with all requirements for RLFC set forth in this Agreement, including those requirements set forth in the definition of the applicable RLFC and those set forth in Attachments A and V. To the extent not specified in Attachments A and V, the Parties shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon the requirements for achieving RLFC. At such time that the Train 1 Expansion has achieved RLFC, Contractor shall certify to Owner using the applicable RLFC Certificate that all requirements under this Agreement for RLFC have occurred. The RLFC Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RLFC have been met. Notwithstanding the foregoing and prior to the First RLFC Window Period, Contractor shall cooperate with Owner to propose an alternative notice and windowing procedure that is more cost efficient and economically feasible to Owner. If such alternative is accepted by Owner in its sole discretion, the foregoing notice and windowing procedure shall be modified by Change Order.

C. ***Notice Requirements for LNG Evacuation after RLFC***. The notice procedures set forth in this Section 11.1C shall be utilized by Contractor and Owner to set forth the time periods within which Owner shall evacuate certain amounts of LNG from the LNG storage tanks at the Facility after the first LNG Tanker is loaded and until Substantial Completion is achieved for the Train 1 Expansion. Subject to Owner's obligations under Section 4.8E, it shall be Owner's sole discretion as to the method utilized by Owner to evacuate LNG from the LNG storage tanks within the time periods set by the procedure in this Section 11.1C. To the extent Owner fails to evacuate LNG in the amounts, and prior to the end of the firm 5-Day windows, set forth by this Section 11.1C, Owner shall have the obligations, and Contractor shall have the rights, set forth by Section 4.8D.

1. As part of Contractor's notice to Owner of the Fourth RLFC Window Period under Section 11.1B, Contractor shall provide Owner with an

estimate, using GECP, of LNG volumes it expects to produce during commissioning and testing of the Train 1 Expansion up to Substantial Completion, including identifying estimated 5-Day windows within which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks in order to continue with its commissioning and testing activities. Thirty (30) Days after this written notice, Contractor shall provide Owner with another written notice updating any of the foregoing estimated LNG production volumes and 5-Day windowing periods and also identifying the first specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks (in addition to that amount of LNG that is to be evacuated by the RLFC LNG Tanker) or the result would be, in Contractor estimation (using GECP), a material interruption in Contractor's commissioning and testing activities. Upon commencement of loading of the RLFC LNG Tanker, Contractor shall give Owner another written notice updating the estimated LNG production volumes during commissioning and testing and the estimated 5-Day windowing periods and shall also identify the second specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks. Thereafter, Contractor shall provide Owner with additional written notices no less than once per Month updating the estimated LNG production volumes for commissioning and testing and the estimated 5-Day LNG evacuation windows. In these notices, or in separate written notices, Contractor shall specifically identify subsequent, firm 5-Day windows in which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks at the Facility, with such notice being provided at least thirty (30) Days in advance of the commencement of such window. If Contractor's commissioning and testing plans change after giving a specific, firm 5-Day window for LNG evacuation, Contractor shall notify Owner as promptly as possible giving the reason for the change, identifying the new 5-Day firm window and providing Contractor's estimate, using GECP, of the effects of any other estimated 5-Day windows. Owner shall use commercially reasonable efforts to provide LNG evacuation in the updated 5-Day window, but shall not be obligated to provide evacuation in accordance with the updated windowing schedule without receiving at least thirty (30) Days prior written notice. Any LNG evacuated by Owner either in amounts greater than 125,000 m^3 of LNG and/or earlier than an established firm 5-Day window shall be credited to Owner's LNG evacuation requirements of the next firm 5-Day window.

D. ***Delay in RLFC***.

1. If (i) RLFC occurs after the Fourth RLFC Window Period or (ii) the Train 1 Expansion, through no fault of Owner, is unable to load an LNG Tanker to demonstrate RLFC, then Contractor shall have the obligation to pay RLFC Delay Liquidated Damages as follows: One Hundred Thousand U.S. Dollars (U.S.$100,000) per Day for each Day, or portion thereof, until the commencement of LNG Tanker loading (the "***RLFC Delay Liquidated Damages***"), subject to an

aggregate limitation on the assessment of RLFC Delay Liquidated Damages of One Million Five Hundred Thousand U.S. Dollars (U.S.$1,500,000).

2. If Owner does not deliver the LNG Tanker to load the first cargo within the applicable Fourth RLFC Window and Contractor is ready to receive such LNG Tanker, Contractor shall be entitled to a Change Order if and to the extent permitted under Section 6.8 or 6.9, as applicable.

11.2 **Notice and Requirements for Substantial Completion**. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of Substantial Completion herein and in Attachment A and Attachment S. To the extent Contractor has not already provided written notice under Section 11.1C, Contractor shall give Owner not less than ninety (90) Days' prior written notice of its intention to commence each Performance Test, and, on the thirtieth (30th) Day immediately prior to Contractor's intention to commence such testing activities, Contractor shall provide written notice to Owner. To the extent not specified in Attachment S, the Parties shall, no later than two hundred forty (240) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon final test procedures for the conduct of the Performance Tests. Contractor shall provide labor, equipment, supplies, and all other items necessary for the conduct of the Performance Tests; *provided, however*, that Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to conduct the Performance Tests. Contractor shall analyze the data obtained during all Performance Tests, and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to Owner at the completion of testing. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner using the Substantial Completion Certificate that all of the requirements under this Agreement for Substantial Completion have occurred and shall provide with such Substantial Completion Certificate a Performance Test report and analysis to Owner for the Performance Tests conducted for the Train 1 Expansion in order to achieve Substantial Completion. At a minimum, each Performance Test report (including for the Ship Loading Performance Test for the Expansion Facility Dock that may be conducted after Substantial Completion of the Train 1 Expansion) shall include (i) the raw data, (ii) the instrumentation utilized for the applicable Performance Tests, (iii) the procedures utilized during the Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the Minimum Acceptance Criteria Testing Conditions, as and to the extent specified in Attachment S, and (v) any other supporting information used to demonstrate that the Work has met the Minimum Acceptance Criteria and, as applicable, other requirements of this Agreement for Substantial Completion. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

A. ***Substantial Completion and Corrective Work Obligations for Common Systems***. All Common Systems shall be required to be capable of achieving Substantial Completion as part of the achievement of Substantial Completion of the Train 1 Expansion except for the Expansion Facility Dock. For purposes of clarity, the Expansion

Facility Dock shall be required to achieve substantial completion in accordance with the Train 2 EPC Agreement.

B. ***Handover of the Existing Facility Modifications***. The Parties agree and acknowledge that certain portions of the Train 1 Expansion and the Scope of Work will include modifications to the Existing Facility (as described further in Section 4.13 of Schedule A-1, the "***Existing Facility Modifications***"). The Existing Facility Modifications are subject to Section 8.2A of this Agreement and will be considered part of the Work and the Train 1 Expansion for purposes of this Agreement. Notwithstanding anything to the contrary in this Agreement (including the timing of transfer of risk of loss pursuant to Section 8.2), upon Handover of the Existing Facility Modifications, (i) the risk of loss shall transfer from Contractor to Owner for the Existing Facility Modifications, (ii) the Defect Correction Period will commence for the Existing Facility Modifications, (iii) Owner will take over care, custody and operational control of the Existing Facility Modifications and (iv) for purposes of Contractor's and Owner's rights and liabilities under Section 20.2 only, such Existing Facility Modifications will become part of the Existing Facility. "***Handover***" of any portion of the Existing Facility Modifications shall be established when Owner accepts, in writing, Contractor's written certification of the following: (1) that such portion of the Existing Facility Modifications (a) has been fabricated, installed, assembled, erected, and pre-commissioned in accordance with the requirements of the Agreement, (b) has been purged, cooled-down, commissioned and tested to the extent reasonably possible given the on-going operations of the Existing Facility, and (c) has been fully integrated into the Existing Facility and is capable of, and available for, full commercial operation in accordance with the requirements of this Agreement and (2) that Contractor has completed all necessary training, if any, of Owner's personnel with respect to such portion of the Existing Facility Modifications as required by Section 3.5 and Attachment V and Contractor has provided Owner with the necessary operating and maintenance manuals for such portion of the Existing Facility Modifications.

11.3 **Owner Acceptance of RLFC and Substantial Completion**. Owner shall notify Contractor whether it accepts or rejects the RLFC Certificate and Substantial Completion Certificate, as the case may be, within ten (10) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such RLFC Certificate and Substantial Completion Certificate shall be evidenced by Owner's signature on the RLFC Certificate or Substantial Completion Certificate, as applicable, which shall be forwarded to Contractor with such notice. If Owner does not agree that RLFC or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days after the delivery by Owner of its notice, Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall not relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

11.4 **Minimum Acceptance Criteria as a Condition of Substantial Completion**. As a condition of achieving Substantial Completion, Contractor shall achieve all Minimum

Acceptance Criteria, as described in greater detail in this Section 11.4. The Performance Tests for determining whether the Work achieves Minimum Acceptance Criteria are described in Attachment S.

A. ***Minimum Acceptance Criteria Not Achieved***. In the event that the Work fails to achieve any of the Minimum Acceptance Criteria, as evidenced by the Performance Test results, by the Guaranteed Substantial Completion Date, as such date may be extended by Change Order as provided herein, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 13.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of six (6) months (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion for the Train 1 Expansion. If the Work has not achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor a second six (6) month Minimum Acceptance Criteria Correction Period under the same terms and conditions as the first, including the application of Section 13.2; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default at the end of either six (6) month period, Owner shall be entitled to the damages, costs, losses and expenses to which Owner is entitled under Section 16.1B. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, during the Minimum Acceptance Criteria Correction Period (or during the second six (6) month period, should Owner elect that option), then Contractor, subject to the limitations of liability set forth in Article 20, shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under this Agreement, including those under Section 13.2. During any Minimum Acceptance Criteria Correction Period, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under this Agreement, so long as such access does not unreasonably interfere with operation of the Work or the Existing Facility and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

B. ***MCHE Replacement Scenario***. Notwithstanding anything to the contrary in Section 11.4A, if (i) achievement of the LNG Production Rate MAC is the only condition remaining for the achievement of Substantial Completion, (ii) the Performance Test for the LNG Production Rate results in an LNG Production Rate of at least ninety-six percent (96%) (or greater) of the LNG Production Rate MAC and (iii) using GECP, Contractor determines that an underperforming MCHE is the sole Defect preventing achievement of the LNG Production Rate MAC and that such Defect is only capable of being corrected by replacing the Defective MCHE with a new MCHE (collectively,

clauses (i) – (iii) being a "***MCHE Replacement Scenario***"), then this Section 11.4B shall set forth the rights and obligations of the Parties with respect to Contractor's obligation to achieve the Minimum Acceptance Criteria by replacing the MCHE. For purposes of clarity, if any one of the above three (3) conditions is not met for the MCHE Replacement Scenario, or if Owner does not provide the MCHE Replacement Scenario Verification Notice (described below), the Parties' rights and obligations with respect to a failure to meet the Minimum Acceptance Criteria are as set forth in Section 11.4A.

1. If Contractor determines that a MCHE Replacement Scenario has occurred, it will provide written notice to Owner with sufficient evidence for Owner to objectively verify that a MCHE Replacement Scenario has occurred. Such written notice shall be accompanied by a Substantial Completion Certificate in the form of Attachment M, modified in a manner acceptable to Owner, identifying the occurrence of an MCHE Replacement Scenario but certifying that all other aspects of Substantial Completion have been achieved. Owner shall respond to Contractor's written notice within ten (10) Days after Owner's receipt of such notice being provided in accordance with this Section 11.4B.1, and Owner's response will either verify that a MCHE Replacement Scenario has occurred (the "***MCHE Replacement Scenario Verification Notice***") or provide an explanation, in reasonable detail, as to why the MCHE Replacement Scenario has not occurred. If Owner provides an MCHE Replacement Scenario Verification Notice to Contractor, Contractor shall promptly develop a plan for Owner's approval (not to be unreasonably withheld) for ordering and installing a new MCHE to replace the Defective MCHE on a timely basis.

2. If Owner provides the MCHE Replacement Scenario Verification Notice, Contractor shall install, commission and test the new MCHE, and Contractor shall cause the LNG Production Rate MAC to be achieved, within twenty-five (25) months after the earlier of (a) order placement of the replacement MCHE and (b) the Guaranteed Substantial Completion Date (such 25-month time period being the "***Replacement Timeline***"). To the extent that Substantial Completion Delay Liquidated Damages would be assessed against Contractor during the Replacement Timeline in accordance with Section 13.2A, such Substantial Completion Delay Liquidated Damages shall be temporarily suspended and, in lieu thereof, the MCHE Replacement Delay Liquidated Damages shall apply as follows:

(i) for an LNG Production Rate equal to ninety-six percent (96%) of the LNG Production Rate MAC, liquidated damages of Forty Thousand U.S. Dollars (U.S.$40,000) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(ii) for an LNG Production Rate equal to one hundred percent (100%) of the LNG Production Rate MAC, liquidated damages of Zero U.S. Dollars (U.S.$0) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE); and

(iii) for an LNG Production Rate falling between 96% of the LNG Production Rate MAC and 100% of the LNG Production Rate MAC, liquidated damages shall be linearly proportional between the two points created by clauses (i) and (ii) above and such liquidated damages shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(collectively, the foregoing liquidated damages shall be considered the "***MCHE Replacement Delay Liquidated Damages***"). For purposes of clarity, the MCHE Replacement Delay Liquidated Damages are subject to the limitation on Contractor's liability for Delay Liquidated Damages set forth in Section 20.3.

3. If, during the Replacement Timeline, the LNG Production Rate increases from the rate determined by the LNG Production Rate Performance Test used to initially determine the MCHE Replacement Delay Liquidated Damages (as evidenced by a subsequent LNG Production Rate Performance Test or as mutually agreed by the Parties through actual measurements and/or calculations), the MCHE Replacement Delay Liquidated Damages shall be reduced in accordance with Section 11.4B.2 above.

4. MCHE Replacement Delay Liquidated Damages shall cease to be assessed against Contractor upon the earlier of (a) the end of the Replacement Timeline and (b) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE). If, at such time, Substantial Completion has not been achieved, and the Guaranteed Substantial Completion Date has passed, Substantial Completion Delay Liquidated Damages (as applicable) shall be assessed against Contractor in accordance with Section 13.2 until Substantial Completion is achieved.

5. During the Replacement Timeline, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under the Agreement and replace the Defective MCHE with the replacement MCHE, so long as such access does not unreasonably interfere with operation of the Work or the Existing Facility and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case

Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

6. If Owner verifies that a MCHE Replacement Scenario has occurred, Owner shall accompany its MCHE Replacement Scenario Verification Notice provided pursuant to Section 11.4B.1 with a written provisional acceptance of the Substantial Completion Certificate, modified in accordance with Section 11.4B.1 (such provisional acceptance being a "***Provisional Substantial Completion***"). Upon acceptance by Owner of Provisional Substantial Completion, (a) risk of loss shall transfer to Owner pursuant to Section 8.2B as if Substantial Completion had been achieved, (b) the Defect Correction Period, and Contractor's obligations to perform Corrective Work, shall commence as further described in the definition of "Defect Correction Period" and Article 12 and (c) Contractor's liability for damage or destruction of any Equipment of the Train 1 Expansion shall be set forth pursuant to Section 20.2 as if such Equipment had achieved Substantial Completion. In addition, upon providing Provisional Substantial Completion and notwithstanding Sections 11.8 and 11.9, Owner shall take over care, custody and control of the operations and maintenance of the Train 1 Expansion as if it had achieved Substantial Completion. Other than as set forth in this Section 11.4B.6, however, all of Contractor's and Owner's other rights and obligations under this Agreement shall remain in force as if Substantial Completion has not been achieved, including maintaining the amounts under the Letter of Credit as if the Train 1 Expansion had not yet achieved Substantial Completion. Further, the Defect Correction Period of any Work performed after Provisional Substantial Completion (including the replacement MCHE) shall commence upon achievement of Substantial Completion and shall continue for a period of eighteen (18) months after achievement of Substantial Completion (and the thirty (30) month period in Section 12.3B shall also run from Substantial Completion of the Train 1 Expansion).

7. Notwithstanding any acceptance by Owner of Provisional Substantial Completion in accordance with this Section 11.4B, in the event that the replacement MCHE fails to achieve the LNG Production Rate MAC, Owner shall have the rights, and Contractor shall have the obligations, set forth in Section 11.4A (except that in such case the Minimum Acceptance Correction Period(s) will have been deemed to have already expired).

11.5 **Punchlist**.

A. ***Punchlist for RFSU.*** Prior to RFSU for each system or subsystem of Equipment or the Work, Owner and Contractor shall inspect such Work, and Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the

proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve RFSU. Upon Contractor's completion or correction of any items necessary to achieve RFSU and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for such system or subsystem of Equipment or the Work up to RLFC.

B. ***Punchlist for RLFC.*** After RFSU and prior to RLFC, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed updated, revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, revised Punchlist or otherwise that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that the Train 1 Expansion will achieve RLFC. Upon Contractor's completion or correction of any items necessary to achieve RLFC, and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items up to Substantial Completion.

C. ***Punchlist for Substantial Completion***. After RLFC and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist (as modified by any Owner additions), including agreement on the reasonable cost to perform such Punchlist Work, such Punchlist shall govern Contractor's performance of the Punchlist items up to Final Completion; *provided, however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of the Agreement. Provided Owner gives Contractor access to the Facility as set forth below, all Work on the Punchlist shall be completed no later than sixty (60) Days after achievement

of Substantial Completion (or such longer period of time as the Parties may mutually agree in writing), or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work at the expense of Contractor. In the event Owner elects to complete such Punchlist Work, Contractor shall immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs and expenses incurred in performing such Punchlist Work, not to exceed one hundred fifty percent (150%) of the agreed cost to perform such Punchlist Work. If Contractor performs any Punchlist Work, Owner shall provide Contractor with reasonable access to the Facility, and will de-energize and de-pressure the applicable Equipment sufficient for Contractor to perform its Punchlist activities, so long as such activities do not unreasonably interfere with the operation of the Facility and subject to any reasonable security and safety requirements of Owner.

11.6 **Notice and Requirements for Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within ten (10) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice. If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice (or within such additional time as mutually agreed to by the Parties in writing), Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18, subject to the Parties' rights and obligations under Section 11.5C.

11.7 **Partial Occupancy**. Prior to Contractor's achieving Substantial Completion, Owner, upon providing thirty (30) Days' written notice to Contractor specifying the occupation it intends to assume, may occupy all or any portion of the buildings for the Train 1 Expansion then capable of being safely occupied, *provided that*, such occupancy is authorized by the Governmental Instrumentality (to the extent such authorization is necessary) and Owner's insurance company or companies providing property insurance and builder's risk coverage have consented to such partial occupancy (to the extent such consent is necessary). Contractor shall assist Owner and take reasonable steps in obtaining consent of the insurance company or companies and applicable Government Instrumentalities. Immediately prior to such partial occupancy, Owner and Contractor shall jointly inspect the building to be occupied in order to determine and record the condition of the building and all personnel and environmental safety aspects of the building. Without limitation of the foregoing, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is occupying a building (or portion thereof). For any building (or portion thereof) that Owner occupies pursuant to this Section 11.7, the Defect Correction Period for that building (or portion thereof) shall commence upon Owner's occupancy of such building (or portion thereof) and the risk of loss for such building (or portion

thereof) shall transfer to Owner, notwithstanding Section 8.2A; *provided that*, the risk of loss shall not transfer, and the Defect Correction Period shall not commence, for any Equipment housed within such building or portion thereof (other than HVAC and lighting).

11.8 **Operations Activities**. Prior to Substantial Completion of the Train 1 Expansion, but after RLFC has been achieved, Contractor shall, to the extent reasonably possible, assist Owner in the operations and maintenance of the Train 1 Expansion in accordance with Owner's reasonable requests and all Permits, including with respect to the performance of activities in connection with (i) the berthing of LNG Tankers and loading of LNG; (ii) the receipt of natural gas feed; (iii) producing LNG; and (iv) such other activities as reasonably requested by Owner (each, an "***Operations Activity***" and, collectively, the "***Operations Activities***"). Contractor shall not have the obligation to follow Owner's requests for any Operations Activity if such Operations Activity adversely impacts Performance Testing or repairs to the Train 1 Expansion or impacts the ability to safely operate the Train 1 Expansion in accordance with the requirements of this Agreement. Contractor shall promptly provide notice to Owner informing Owner whether it can comply with Owner's requests and the reason if it cannot so comply. Contractor's performance of the Operations Activities shall not in any way release Contractor from any obligations or liabilities pursuant to this Agreement, including its obligations to meet Substantial Completion and Final Completion. Notwithstanding anything to the contrary in this Section, any restrictions concerning Operations Activity shall not apply to the scheduling and berthing of LNG Tankers or the loading or unloading of LNG to or from the LNG Tankers after any LNG Tankers have been called or scheduled.

11.9 **LNG Tankers Calling on the Facility**. Subject to Section 11.8, Contractor acknowledges that certain Operations Activities may involve the berthing, loading or unloading of LNG Tankers (other than the LNG Tankers calling on the Facility for the first load of the Train 1 Expansion or for Performance Testing). Owner shall give Contractor at least fourteen (14) Days prior written notice of the berthing, loading or unloading of such LNG Tankers. Owner and Contractor shall develop a written plan to avoid or minimize impacts, if any, to the Work which would be caused by the berthing, loading or unloading of such LNG Tankers.

11.10 **Long-Term Obligations**. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of RFSU, RLFC, Substantial Completion or Final Completion, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations, any liabilities for which insurance is required or any other responsibility of Contractor, including the payment of any and all fines and penalties assessed as a result of Contractor's failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 11 shall in any way modify or alter Contractor's obligations under Article 12 and Article 13 hereof.

ARTICLE 12
WARRANTY AND CORRECTION OF WORK

12.1 **Warranty**.

A. ***General***. The warranties set forth in this Article 12 (collectively, the "***Warranty***" or "***Warranties***") are in addition to any of the Minimum Acceptance Criteria or Performance Guarantees set forth in this Agreement. Any Work, or component thereof, that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

B. ***Warranty of Work***. Contractor hereby warrants that the Work, including Equipment, and each component thereof shall be:

1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;

2. in accordance with all of the requirements of this Agreement, including in accordance with GECP, Applicable Law and Applicable Codes and Standards;

3. free from encumbrances to title, as set forth in greater detail in Section 8.1;

4. free from defects in design, material and workmanship; *provided that*, tolerances in material and workmanship allowable by Applicable Law or Applicable Codes and Standards shall not be considered a defect unless the Scope of Work sets forth stricter tolerances; and

5. with respect to Equipment or any component of Equipment, unless otherwise specifically agreed in writing by Owner by Change Order, composed and made of only proven technology, of a type in commercial operation at the Effective Date of this Agreement, with conditions substantially similar to those contained herein; *provided that* Owner's agreement for Contractor to use any Equipment not in compliance with this Section 12.1B.5 shall not relieve Contractor of any of its obligations under this Agreement.

C. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work. All such warranties shall be deemed to run to the benefit of Owner and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall

be enforceable by Owner upon Substantial Completion (except for the Work on the Expansion Facility Dock, in which such warranties shall be assigned to, and enforceable by, Owner upon the earlier of achievement of Final Completion under this Agreement or achievement of substantial completion of the Expansion Facility Dock under the Train 2 EPC Agreement). All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 12 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument.

D. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by Owner; (ii) operation, maintenance or use of Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Contractor to Owner; (iii) normal wear and tear; or (iv) erosion or corrosion as a result of environmental elements not reasonably expected given the location of the Site.

12.2 **Correction of Work Prior to Substantial Completion**.

A. ***General Rights***. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon receipt of such written notice, Contractor shall, at its own expense, promptly correct such Defective Work, whether by repair, replacement or otherwise. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such dispute. If it is later determined that the Work was not Defective, then Owner shall reimburse Contractor for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact the repair or replacement may have had on the Train 1 Project Schedule. If Contractor fails, after a reasonable period of time not to exceed one (1) week, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor may repair or replace such Defective Work and the expense thereof shall be paid by Contractor; *provided, however*, if the Defective Work materially affects the operation or use of the Existing

Facility or the Train 1 Expansion after it has achieved RLFC, or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty-four (24) hours after receipt of notice of such Defective Work, and thereafter continue to proceed diligently to complete the same, or Owner may repair or replace such Defective Work and the expense thereof shall be paid by Contractor.

B. ***Witness Points***. Contractor shall provide Owner a proposed list of witness points for each item of Equipment for Owner's review and prior written approval no later than thirty (30) Days' after placement of the applicable Subcontract for such item of Equipment, and Owner shall notify Contractor which of the witness points it wishes its personnel to witness. Contractor shall provide Owner with at least thirty (30) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Owner's right of inspection as set forth herein applies only to its witnessing of witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion on the Work (including Equipment) at any time in its sole discretion and in accordance with this Agreement.

C. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 12.2A and 12.2B shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

D. ***Cost of Disassembling***. 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 Owner if such Work is found to conform with the requirements of this Agreement and by Contractor if such Work is found to be Defective.

12.3 **Correction of Work After Substantial Completion**. If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work, whether by repair, replacement or otherwise, including any and all obligations in connection with such repair, replacement or otherwise, such as in and out costs, storage, labor, Taxes, transportation and expediting costs and any other costs necessary to fully correct the Work (collectively, the "***Corrective Work***"). Owner shall provide Contractor with access to the Facility, and will de-energize and de-pressure the applicable Equipment, sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the construction or operation of the Facility and subject to any reasonable security or safety requirements of Owner. In the event Contractor utilizes spare parts owned by Owner in the course of performing the Corrective Work, Contractor shall supply Owner free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by Contractor as soon as possible following the utilization of such spare parts. Unless otherwise allowed by Owner in writing,

Contractor will maintain at least one (1) Contractor's representative at the Site during the Defect Correction Period to assist in coordinating the resolution of any Defective Work.

A. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (including notification to Owner of its implementation plan to perform the Corrective Work) within a reasonable period of time not to exceed five (5) Days after receipt of Owner's written notice to Contractor identifying and describing with reasonable specificity that portion of Work that is Defective, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work, and Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses; *provided, however*, if any Defective Work materially affects the construction, operation or use of any of the Work or the Facility or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work without giving prior written notice to Contractor, and, in such event, Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses.

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.

C. ***Standards for Corrective Work***. All Corrective Work shall be performed subject to the same terms and conditions under this Agreement as the original Work is required to be performed. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Owner.

D. ***No Limitation***. Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the Defect Correction Period relates only to the specific obligation of Contractor to perform Corrective Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work.

12.4 **Assignability of Warranties**. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

12.5 **Waiver of Implied Warranties**. EXCEPT FOR ANY EXPRESS WARRANTIES UNDER THIS AGREEMENT (INCLUDING THE WARRANTIES), THE PARTIES HEREBY DISCLAIM ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY IMPLIED WARRANTY OF HABITABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 13
GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

13.1 **Guarantee of Timely Completion**. Contractor specifically acknowledges that time is of the essence as to the Guaranteed Substantial Completion Date, Guaranteed Record As-Built Delivery Date and the dates for when Contractor is required to be ready under this Agreement to load the LNG Tanker for RLFC.

13.2 **Delay Liquidated Damages**.

A. ***Delay in Substantial Completion***. If Substantial Completion occurs after the Guaranteed Substantial Completion Date, Contractor shall pay to Owner the amounts listed in Attachment E per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Substantial Completion Delay Liquidated Damages***").

B. ***Delay in Achieving Record As-Built Delivery Requirement***. If the Record As-Built Delivery Requirement occurs after the Guaranteed Record As-Built Delivery Date, Contractor shall pay to Owner Ten Thousand Dollars per Day for each Day, or portion thereof, of delay until the Record As-Built Delivery Requirement is achieved (the "***Record As-built Delivery Requirement Delay Liquidated Damages***").

C. ***RLFC Delay Liquidated Damages***. RLFC Delay Liquidated Damages shall be assessed in accordance with Section 11.1D and paid in accordance with Section 13.2E.

D. ***MCHE Replacement Delay Liquidated Damages***. MCHE Replacement Delay Liquidated Damages shall be assessed in accordance with Section 11.4B.2 and paid in accordance with Section 13.2E.

E. ***Payment of Delay Liquidated Damages***. With respect to any Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within thirty (30) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages. In addition, with respect to the achievement of Substantial Completion, Contractor shall pay Owner all Delay Liquidated Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

13.3 **Schedule Bonus**. Contractor shall be entitled to a bonus in the amount of Five Hundred Thousand U.S. Dollars (U.S.$500,000) per Day for each Day that Contractor achieves Substantial Completion before the Schedule Bonus Date; *provided that* (i) the maximum bonus

payable under this Section 13.3 shall be Seventy-Five Million U.S. Dollars (U.S.$75,000,000) and (ii) the bonus payable under this Section 13.3 shall be reduced in the amount of the sum of any claims by Owner against Contractor, any claims by Contractor against Owner or any liens against the Site that are brought by Contractor or any Subcontractors or Sub-subcontractors, if such claims are not resolved as of the date of Final Completion. Any bonus owed under this Section 13.3 shall be paid by Owner within thirty (30) Days after Final Completion and Owner receiving an invoice for such bonus.

ARTICLE 14
CONTRACTOR'S REPRESENTATIONS

Contractor, CB&I and Zachry represent and warrant, as applicable, that:

14.1 **Corporate Standing**. Contractor is a joint venture duly organized, validly existing and in good standing under the laws of the State of Texas; CB&I is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas; Zachry is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; and each is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

14.2 **No Violation of Law; Litigation**. Each is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best of its knowledge) threatened against Contractor, CB&I or Zachry that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, CB&I or Zachry, or the ability of any of them to perform under this Agreement.

14.3 **Licenses**. Contractor is either the holder of all Permits, or will acquire all Permits required to permit it to operate or conduct its business as required by Section 3.12.

14.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the charter or by-laws of Contractor, CB&I or Zachry, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor, Zachry or CB&I is a party or by which any of them are bound or to which any of them are, or any of their property or assets is, subject, or constitute a default under any such agreement or instrument.

14.5 **Corporate Action**. Each has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of each; and this Agreement has been duly and validly executed and delivered by each and constitutes a legal,

valid and binding obligation of Contractor, CBI and Zachry enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

14.6 **Financial Solvency**. Each is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Each Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.16 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.16.

ARTICLE 15
OWNER'S REPRESENTATIONS

Owner represents and warrants that:

15.1 **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2 **No Violation of Law; Litigation**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.3 **Licenses**. It is the holder of (or is a beneficial user of) or will take the necessary action to obtain, or cause to be obtained, all Permits under Attachment Q.

15.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the operating agreement or by-laws of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.5 **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the

enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.6 **Financing and Payment**. Owner has obtained financing, or will obtain financing prior to or upon issuance of NTP, from one or more Lenders to enable it to pay all debts as they mature and perform its payment obligations under this Agreement.

ARTICLE 16
DEFAULT, TERMINATION AND SUSPENSION

16.1 **Default by Contractor**.

A. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) repeatedly fail to prosecute the Work in a diligent, efficient, workmanlike, skillful and safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) effect an Abandonment of the Train 1 Project; (iv) repudiate any of its material obligations under the Agreement; (v) repeatedly fail to use an adequate amount or quality of personnel or equipment to perform and complete the Train 1 Project without delay; (vi) be in Default pursuant to Section 5.4F, 11.4A or 21.7; (vii) fail to maintain insurance required under this Agreement; (viii) fail to provide or maintain the Letters of Credit or the Parent Guarantee in accordance with Section 9.2 or Section 21.16, respectively; (ix) fail to discharge or bond liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (x) cause, by any action or omission, any material stoppage or delay of or interference with the operations of the Existing Facility, except as allowed under Section 3.25; (xi) fail to make payment to Subcontractors for labor or materials owed in accordance with the respective Subcontracts; (xii) disregard Applicable Law or Applicable Codes and Standards; (xiii) fail to comply with any material provision of this Agreement; or (xiv) itself or the Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection (each of the foregoing being a "***Default***") then (following Owner's written notice to Contractor specifying the general nature of the Default, unless Contractor cures such condition within the applicable Cure Period, if any, set forth below) Owner, at its sole option and without prejudice to any other rights that it has under this Agreement, but remaining subject to the limitations of liability set forth in Article 20, may (1) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all reasonable, additional costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation expenses) incurred by Owner in connection therewith, (2) terminate for Default Contractor's performance of all or any part of the Work, or (3) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Notwithstanding the foregoing, Owner shall not be entitled to terminate Contractor as a result of a delay in achieving Substantial Completion during the first six (6) months after the Guaranteed Substantial Completion Date; *provided that* Owner shall be entitled to terminate Contractor prior to the expiration of such six (6) month period if (i) Contractor is not paying to Owner when owed Delay Liquidated Damages during such six (6) month period

or Contractor is not diligently performing the Work and (ii) Owner is otherwise entitled to terminate Contractor under this Section 16.1A. In addition, Owner shall not be entitled to terminate Contractor for anticipatory delay in achieving Substantial Completion unless, based on the current progress of the Work, Contractor is projected to achieve Substantial Completion six (6) months or more beyond the Guaranteed Substantial Completion Date, *provided that* Owner shall be entitled to terminate Contractor at any time if Contractor is not diligently performing the Work and Owner is otherwise entitled to terminate Contractor under this Section 16.1A.

1. Contractor shall have the following time periods to cure Defaults identified by Owner pursuant to Section 16.1A (as applicable, the "***Cure Period***"): (A) for items (i), (ii), (iii), (iv), (v), (x), and (xiii) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default, *provided that*, if, due to the nature of the Default, it cannot be cured by exercising all practicable diligence within such 30-Day period, Contractor shall cure the Default as soon as reasonably practicable but, in any event, not more than sixty (60) Days after receipt of written notice from Owner of the Default (unless otherwise expressly agreed upon by the Parties in writing); (B) for items (vii), (viii), (ix), (xi) and (xii) in Section 16.1A, Contractor shall cure the Default within fourteen (14) Days after receipt of written notice from Owner of such Default; (C) for a Default pursuant to Section 5.5H via item (vi) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default; (D) for a Default pursuant to item (xiv) in Section 16.1A or pursuant to Section 11.4A via item (vi) in Section 16.1A, no Cure Period shall be provided and Owner's right to terminate shall be exercisable immediately upon Contractor being provided written notice of Default; and (E) for a Default pursuant to Section 21.7 via item (vi) in Section 16.1A, Contractor shall cure the Default within five (5) Business Days after receipt of written notice from Owner of such Default.

B. ***Additional Rights of Owner Upon Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1A, then Owner may, at its sole option, (i) enter onto the Site and, for the purpose of completing the Work, take possession of all equipment, tools, supplies, scaffolding and machinery rented by Contractor and all Equipment, Books and Records and Work Product, (ii) take assignment of any or all of the Subcontracts, and/or (iii) complete the Work either itself or through others. If the unpaid balance of the Contract Price shall exceed all damages, costs, losses and expenses incurred by Owner (including all attorneys' fees, consultant fees and litigation expenses, costs to complete the Work, Delay Liquidated Damages and any and all damages for failure of performance and cost of financing or interest on such expense from the date such expense was incurred by Owner at the rate specified in Section 7.7), then such excess shall be paid by Owner to Contractor, but such amount shall not be paid until after Final Completion has been achieved. If such amount incurred by Owner shall exceed the unpaid balance of the Contract Price, then, at Owner's sole option, Contractor shall pay Owner the difference within thirty (30) Days after written notice of the demand, or Owner shall have the right and authority to offset or collect on the Letter of Credit in the amount of such difference. Subject to Article 20, Contractor's liability under this

Section 16.1B is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination for Default, including the obligations to act reasonably promptly in replacing Contractor with a substitute contractor. In the event of a termination for Default, the Parties agree that Owner shall be entitled to all damages, losses and reasonable costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages; *provided that* Contractor's maximum liability under this Article 16 is limited by the limitations of liability set forth in Article 20, including, for Delay Liquidated Damages, as provided by Section 20.3A. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for purposes of this Section 16.1B, and with respect to Substantial Completion that was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion or, using GECP, should have achieved Substantial Completion under the circumstances.

C. ***Obligations Upon Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) inventory, maintain and turn over to Owner all equipment, machinery, materials, tools, supplies and scaffolding rented by Contractor or provided by Owner for performance of the terminated Work, (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations under Section 16.1B.

16.2 **Termination for Convenience by Owner**. Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts, (iv) assist Owner in the maintenance, protection, and disposition of Work in progress, (v) cooperate with Owner for the efficient transition of the

Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards and Owner may, at its sole option, take assignment of any or all of the Subcontracts. Contractor shall be paid (1) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement) prior to termination, less that portion of the Contract Price previously paid to Contractor (including down payments, if any, made under this Agreement), plus (2) reasonable close-out costs (plus profit and general and administrative expenses for such costs) submitted in accordance with this Section, plus (3) reasonable costs (plus profit and general and administrative expenses for such costs) for demobilizing Contractor, Subcontractor and Sub-subcontractor personnel, construction equipment and temporary facilities from the Site to their point of origin, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable close-out and demobilization costs to Owner for verification and audit within one hundred twenty (120) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of One Hundred U.S. Dollars (U.S.$100) for its undertaking to perform. With respect to payments regarding Payment Milestones, the Parties recognize and agree that the amount and timing of the Payment Milestone payments have been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under the Payment Milestones. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for such Payment Milestones performed but instead shall be entitled to the value of the Work actually performed.

16.3 **Suspension of Work**. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Expansion Facility Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the Train 1 Project Schedule if and to the extent permitted under Section 6.9. Upon receipt of notice to resume suspended Work, Contractor shall promptly resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 **Suspension by Contractor**. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, subject to Owner's right to withhold or offset payment to Contractor under this Agreement, if Owner fails to pay undisputed amounts due and owing to Contractor and Owner has failed to cure such failure within thirty (30) Days following Contractor's written notice to Owner to cure such failure, Contractor may suspend performance of the Work until Contractor receives such undisputed amounts. Contractor shall be entitled to a Change Order for any costs incurred by Contractor resulting from such suspension and shall be entitled to an extension in the Train 1 Project Schedule to the extent permitted under Section 6.9.

16.5 **Termination by Contractor**. Contractor may terminate this Agreement if, continuing at the time of such termination, Contractor has stopped the performance of all Work under this Agreement pursuant to Section 16.4 for thirty (30) Days, and after the expiration of such thirty (30) Day period, Contractor gives Owner written notice specifying the nature of the default and its intent to terminate the Agreement, and Owner fails to cure such default within thirty (30) Days after receipt of Contractor's notice. In the event of any such termination under this Section 16.5, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 in the event of an Owner termination for convenience. This Section 16.5 and Sections 16.6 and 21.7 set forth Contractor's only rights to terminate this Agreement.

16.6 **Termination Due to Extended Force Majeure**. Contractor may terminate this Agreement by providing written notice to Owner of its intent to terminate the Agreement in the event a single event of Force Majeure prevents performance of all of the Work for a period of time in excess of ninety (90) Days, unless prior to the expiration of such ninety (90) Day period Owner agrees to pay Contractor's reasonable standby costs incurred by Contractor after the expiration of such ninety (90) Days, which shall be documented by Change Order. If Owner agrees to pay such reasonable standby costs and commences paying such reasonable standby costs, then Contractor shall not be entitled to terminate the Agreement until the expiration of a total of three hundred sixty-five (365) Days. In the event of any termination under this Section 16.6, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 regarding a termination for convenience.

ARTICLE 17
INDEMNITIES

17.1 **General Indemnification**. IN ADDITION TO ITS INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS CONTAINED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND OWNER INDEMNIFIED PARTIES FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY OF THE FOLLOWING:

A. ACTUAL OR ALLEGED FAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT;

B. SUBJECT TO SECTIONS 17.4 AND 19.2A, ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B;

C. ACTUAL OR ALLEGED CONTAMINATION, SPILL, RELEASE, DISCHARGE OR POLLUTION ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ONTO THE SITE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, OR ANY INCREASED CONTAMINATION OR POLLUTION CAUSED BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR DUE TO THE FAILURE TO STOP WORK UPON DISCOVERING ANY PRE-EXISTING HAZARDOUS MATERIALS WHICH CONTRACTOR OR SUCH SUBCONTRACTOR OR SUB-SUBCONTRACTOR KNOWS OR REASONABLY SUSPECTS TO BE HAZARDOUS MATERIAL;

D. CLAIMS BY ANY GOVERNMENTAL INSTRUMENTALITY AS A RESULT OF A FAILURE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TO PAY TAXES FOR WHICH IT IS RESPONSIBLE UNDER THIS AGREEMENT;

E. FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT; OR

F. BODILY INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO THE WORK, TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

17.2 **Injuries to Contractor's Employees and Damage to Contractor's Property**. NOTWITHSTANDING THE PROVISIONS OF SECTION 17.1F, CONTRACTOR SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR OR SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY EMPLOYEE, OFFICER OR DIRECTOR OF ANY OF THEM, REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF AN OWNER INDEMNIFIED PARTY.

17.3 **Injuries to Owner's Employees and Damage to Owner's Property**. OWNER SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS, DIRECTORS OF ANY OWNER INDEMNIFIED PARTY OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF OWNER INDEMNIFIED PARTIES (EXCLUDING THE WORK, THE EXPANSION FACILITY AND THE EXISTING FACILITY), REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF ANY CONTRACTOR INDEMNIFIED PARTY.

17.4 **Owner's Patent and Copyright Indemnification**. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS ATTRIBUTABLE TO PROCESSES PRACTICED BY OWNER IN THE OPERATION OF THE EXISTING FACILITY, UNLESS SUCH PROCESS IS UNDERTAKEN AS REQUIRED IN WRITING BY CONTRACTOR (OR REQUIRED UNDER THE SCOPE OF WORK) TO FACILITATE THE PERFORMANCE OF THE WORK OR THE OPERATION OF THE EXPANSION FACILITY.

17.5 **Contractor's Patent and Copyright Indemnification**. IN THE EVENT THAT ANY SUIT, CLAIM, TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IS GRANTED IN CONNECTION WITH SECTION 17.1B, CONTRACTOR SHALL, IN ADDITION TO ITS OBLIGATION UNDER SECTION 17.1B, 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, CONTRACTOR SHALL PROMPTLY MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE, AT NO COST TO OWNER, AUTHORIZING CONTINUED USE OF THE INFRINGING WORK. IF CONTRACTOR IS UNABLE TO SECURE SUCH A LICENSE WITHIN A REASONABLE TIME, CONTRACTOR 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. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B.

17.6 **Lien Indemnification**. SHOULD ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY OTHER PERSON ACTING THROUGH OR UNDER CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR FILE A LIEN OR OTHER ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE WORK, THE SITE OR THE FACILITY, CONTRACTOR SHALL, AT ITS SOLE COST AND EXPENSE, REMOVE AND DISCHARGE, BY PAYMENT, BOND OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE WITHIN TWENTY (20) DAYS AFTER THE FILING OF SUCH LIEN OR ENCUMBRANCE, *PROVIDED THAT*, OWNER HAS MADE PAYMENT TO CONTRACTOR OF ALL UNDISPUTED AMOUNTS OWED TO CONTRACTOR IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF CONTRACTOR FAILS TO

REMOVE AND DISCHARGE ANY SUCH LIEN OR ENCUMBRANCE WITHIN SUCH TWENTY (20) DAY PERIOD, THEN OWNER MAY, IN ITS SOLE DISCRETION AND IN ADDITION TO ANY OTHER RIGHTS THAT IT HAS UNDER THIS AGREEMENT, AT LAW OR EQUITY, TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

A. REMOVE AND DISCHARGE SUCH LIEN AND ENCUMBRANCE USING WHATEVER MEANS THAT OWNER, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE, INCLUDING THE PAYMENT OF SETTLEMENT AMOUNTS THAT IT DETERMINES IN ITS SOLE DISCRETION AS BEING NECESSARY TO DISCHARGE SUCH LIEN OR ENCUMBRANCE. IN SUCH CIRCUMSTANCE, CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES, AND SETTLEMENT PAYMENTS) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH REMOVAL AND DISCHARGE. ALL SUCH DAMAGES, COSTS, LOSSES AND EXPENSES SHALL BE PAID BY CONTRACTOR NO LATER THAN THIRTY (30) DAYS AFTER RECEIPT OF EACH INVOICE FROM OWNER;

B. SEEK AND OBTAIN AN ORDER GRANTING SPECIFIC PERFORMANCE FROM A COURT OF COMPETENT JURISDICTION, REQUIRING THAT CONTRACTOR IMMEDIATELY DISCHARGE AND REMOVE, BY BOND, PAYMENT OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE. THE PARTIES EXPRESSLY AGREE THAT OWNER SHALL BE ENTITLED TO SUCH SPECIFIC PERFORMANCE AND THAT CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH SPECIFIC PERFORMANCE ACTION. CONTRACTOR AGREES THAT THE FAILURE TO DISCHARGE AND REMOVE ANY SUCH LIEN OR ENCUMBRANCE WILL GIVE RISE TO IRREPARABLE INJURY TO OWNER AND OWNER'S AFFILIATES, AND FURTHER, THAT OWNER AND SUCH OWNER AFFILIATES WILL NOT BE ADEQUATELY COMPENSATED BY DAMAGES; OR

C. CONDUCT THE DEFENSE OF ANY ACTION IN RESPECT OF (AND ANY COUNTERCLAIMS RELATED TO) SUCH LIENS OR ENCUMBRANCES AS SET FORTH IN SECTION 17.7, WITHOUT REGARD TO CONTRACTOR'S RIGHTS UNDER SUCH SECTION.

17.7 **Legal Defense**. 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 AGREEMENT, 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 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 SECTION 17.7, 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 ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION 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 INTEREST ON SAME FROM THE DATE ANY SUCH COST AND EXPENSE WAS PAID BY SUCH INDEMNIFIED PARTY UNTIL REIMBURSED BY THE INDEMNIFYING PARTY AT THE INTEREST RATE SET FORTH IN THIS AGREEMENT.

17.8 **Enforceability**.

A. EXCEPT AS OTHERWISE SET FORTH ABOVE, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR BODILY INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT 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 17 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

B. OWNER AND CONTRACTOR AGREE THAT THE TEXAS OILFIELD ANTI-INDEMNIFICATION ACT, TEX. CIV. PRAC. & REM. CODE ANN. §§ 127.001-005, TEX. CIV. PRAC. & REM. CODE ANN. §§ 130.001-005 AND TEX. INS. CODE ANN. CHAPTER 151 ARE 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, EACH PARTY HEREBY AGREES TO 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 CONTRACTOR AGREES THAT THE CONTRACT PRICE COMPENSATES CONTRACTOR FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THE AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

C. 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. EACH PARTY ACKNOWLEDGES SPECIFIC PAYMENT OF TEN AND NO/100 U.S. DOLLARS (U.S. $10.00) AS LEGAL CONSIDERATION FOR THE INDEMNITY OBLIGATIONS AS MAY BE PROVIDED IN THIS AGREEMENT.

ARTICLE 18
DISPUTE RESOLUTION

18.1 **Negotiation**. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement) ("***Dispute***") cannot be resolved informally within fifteen (15) Days after the Dispute arises, or such longer period of time as mutually agreed to in writing by the Parties, either Party may give written notice to the other Party requesting that a representative of Owner's senior management and Contractor's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such notice, or such longer period of time as mutually agreed to in writing by the Parties, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 18.1 be construed to limit either Party's right to take any action under this Agreement, including Owner's rights under Section 16.1.

18.2 **Mediation**. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) Days of receipt of the notice set forth in Section 18.1, then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other Party requesting such mediation, which shall be held in Houston, Texas, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) Days after the date written notice of mediation is received, either Party may petition the American Arbitration Association ("***AAA***") for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the AAA's Construction Industry Arbitration Rules and Mediation Procedures then in effect. The mediation shall be concluded within forty-five (45) Days after receipt of the mediation request, unless the Parties agree otherwise. The Parties and the mediator shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (i) views expressed or suggestions made by either Party with respect to a possible settlement of the Dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement made by the mediator. With respect to expenses related to mediation, the expenses of witnesses for either Party shall be paid by the Party producing such witnesses; all other expenses of mediation, including required traveling, fees and other expenses of the mediator, shall be borne equally by the Parties unless otherwise agreed by the Parties. Mediation is an absolute condition precedent to litigation, except (i) to the extent necessary to avoid statute of limitation issues or to preserve bond rights, (ii) if another Dispute is already subject to litigation pursuant to this Article or (iii) if a dispute under the Train 2 EPC Agreement is already

subject to litigation pursuant to its terms and the Dispute hereunder is related to such Train 2 EPC Agreement dispute.

18.3 **Litigation**. In the event that the Dispute is not resolved by mediation within forty-five (45) Days (or such other time agreed upon in writing by the Parties pursuant to Section 18.2) after receipt of the mediation request given in accordance with 18.2, then the Parties agree that such Dispute shall be decided by litigation pursuant to this Section 18.3. Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail in accordance with the notice provisions of this Agreement, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdiction. Nothing herein shall affect the right of any Party to serve legal process in any manner permitted by Applicable Law or affect its right to bring any action that does not arise out of or relate to this Agreement in any other court of competent jurisdiction. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE BETWEEN THE PARTIES OR WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

18.4 **Continuation of Work During Dispute**. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 or 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall the occurrence of any negotiation or litigation prevent or affect Owner from exercising its rights under this Agreement, including Owner's right to terminate pursuant to Article 16.

ARTICLE 19
CONFIDENTIALITY

19.1 **Contractor's Obligations**. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information, whether disclosed prior to or after the Effective Date: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary for such Subcontractor or Sub-subcontractor to perform any Work or (ii) any other information which is conspicuously marked and identified in writing as confidential and relates to the business, products, services, research or development, actual or potential clients or customers, financing of the Train 1 Project, designs, methods, discoveries, trade secrets, research, development or finances of Owner or any Owner Affiliate, or relating to similar information of a third party who has entrusted such information to Owner or any Owner Affiliate (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to

disclosing any Owner's Confidential Information in (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Proprietary Work Product.

19.2 **Owner's Obligations**. Owner hereby covenants and warrants that Owner 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 any of the following information: (i) any estimating, technical or pricing information, methodologies, techniques or know-how of Contractor or its Subcontractors relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor, (ii) any of Contractor's Intellectual Property or Third Party Proprietary Work Product, which is conspicuously marked and identified in writing as confidential by Contractor or (iii) any financial information provided to Owner pursuant to Section 9.4, whether or not marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). Subject to Section 19.2A, the Parties agree that Owner may disclose Contractor's Confidential Information to its Affiliates, partners, underwriters, customers, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and its representatives, Owner's (or Owner's Affiliates') consultants, rating agencies or any other party in relation to project financing for the Train 1 Project, *provided that* Owner binds such Persons to confidentiality obligations similar to those contained in this Section 19.2. Notwithstanding the foregoing (but subject to Section 10.1), in no event shall Owner be restricted in any way from the use or disclosure of the Work Product, and Owner shall be entitled to disclose to Persons that portion of Contractor's Intellectual Property and Third Party Proprietary Work Product for which Owner has a license to the extent such disclosure is consistent with the purposes for which such license is granted pursuant to Section 10.1.

A. Notwithstanding the foregoing rights and obligations set forth in Section 19.2, with respect to Air Products and Chemicals, Inc.'s (APCI) Third Party Proprietary Work Product disclosed to any members of the board of directors of Owner or any of its Affiliates that are employed by ConocoPhillips Company, Owner shall prevent any disclosure of such APCI Third Party Proprietary Work Product to other employees or representatives of ConocoPhillips Company (who are not a member of those boards of directors) or the use of such APCI Third Party Proprietary Work Product by such board member as part of his or her employment with ConocoPhillips Company (other than employment functions related to being a member of such board of directors) and, in the event such unauthorized disclosure or use of APCI Third Party Proprietary Work Product does occur, Owner shall protect, indemnify, defend and hold Contractor Group harmless from and against all claims, demands, causes of action, and suits of every type and character (including intellectual property infringement claims), including reasonable attorney's fees, brought by APCI or ConocoPhillips against Contractor Group and arising out of such unpermitted disclosure or use.

19.3 **Definitions**. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 **Exceptions**. Notwithstanding Sections 19.1 and 19.2, 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 Article 19; (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, other than directly or indirectly disclosed or acquired through the FEED Agreement, or any other agreements between the Parties related to the Train 1 Project; (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, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies, including FERC, in connection with the Facility to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed and, to the extent reasonably capable under Applicable Law and the circumstances surrounding the disclosure, shall provide Disclosing Party with an opportunity to take appropriate steps the Disclosing Party believes are necessary to protect the confidentiality and/or proprietary nature of its Confidential Information.

19.5 **Equitable Relief**. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, 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, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 **Term**. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of ten (10) years following the expiration or earlier termination of this Agreement.

ARTICLE 20
LIMITATION OF LIABILITY

20.1 **Contractor Aggregate Liability**. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of Four Hundred and Thirty Million U.S. Dollars (U.S.$430,000,000) in the aggregate; *provided that*, notwithstanding the foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply in the event of Abandonment of the Train 1 Project by Contractor; (ii) apply to Contractor's indemnification obligations under this Agreement with respect to any claims brought by a third party; (iii) apply

to Contractor's obligation to deliver to FLIQ CF full legal title to and ownership of all or any portion of the Work and the Train 1 Expansion as required under this Agreement; (iv) include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Contractor or any of its Subcontractors or Sub-subcontractors under this Agreement; or (v) apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion for the Train 1 Expansion and the Minimum Acceptance Criteria for the Expansion Facility Dock, and the costs incurred by Contractor in performing the Work shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Contractor, Owner, Lender or their respective Affiliates or member companies.

20.2 **Damage to the Existing Facility and the Train 1 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) for any damages, losses, costs and expenses arising from or related to damage to or destruction of (i) any portion of the Train 1 Expansion (other than Common Systems that do not achieve substantial completion with Substantial Completion of the Train 1 Expansion pursuant to Section 11.2A) occurring after the Train 1 Expansion has achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2B for Existing Facility Modifications at Handover) or (ii) of the Existing Facility, 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 or joint negligence or fault of any Contractor Indemnified Party or Contractor's Subcontractors or Sub-subcontractors. 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, 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*, that Contractor's liabilities assumed under this Section 20.2 shall remain subject at all times to 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 1 Expansion (other than Common Systems that do not achieve substantial completion with Substantial Completion of the Train 1 Expansion pursuant to Section 11.2A) occurring after the Train 1 Expansion achieved

Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2B for Existing Facility Modifications at Handover) or (b) the Existing Facility. Nothing set forth in this Section 20.2 shall relieve or limit Contractor's assumption of the risk of loss of the Train 1 Expansion under Section 8.2. In addition, nothing in this Section 20.2 shall limit Contractor's liability arising from or related to damage to or destruction of (y) the Train 2 Expansion, except Common Systems also forming a portion of the Train 2 Expansion that achieve Substantial Completion under this Agreement or (z) Common Systems that do not achieve Substantial Completion under this Agreement pursuant to Section 11.2A.

A. ***Common Systems Achieving Substantial Completion Under the Train 2 EPC Agreement***. With respect to Common Systems that do not achieve Substantial Completion under this Agreement pursuant to Section 11.2A (but instead achieve substantial completion pursuant to the Train 2 EPC Agreement), Contractor's liabilities and limitation thereof, and Owner's indemnities, releases and waivers, set forth in Section 20.2 shall not apply to any damage to or destruction of such Common Systems until such Common Systems achieve substantial completion pursuant to the Train 2 EPC Agreement; *provided that*, if the Train 2 EPC Agreement is terminated prior to such Common Systems achieving substantial completion pursuant to such Train 2 EPC Agreement, then Contractor's liabilities and limitation thereof, and Owner's indemnities, releases and waivers, set forth in Section 20.2 shall not apply to any damage to or destruction of such Common Systems until Final Completion is achieved under this Agreement.

20.3 **Limitation on Contractor's Liability for Delay Liquidated Damages**.

A. ***Delay Liquidated Damages***. Subject to Section 20.3B, Contractor's maximum liability to Owner for Delay Liquidated Damages is One Hundred Ninety Million U.S. Dollars (U.S.$190,000,000) in the aggregate. For purposes of clarity, the Substantial Completion Delay Liquidated Damages, the RLFC Delay Liquidated Damages, the MCHE Replacement Delay Liquidated Damages and the Record As-Built Delivery Requirement Delay Liquidated Damages assessed against Contractor pursuant to Sections 13.2A, 11.1D, 11.4B, and 13.2B, respectively, shall apply towards the foregoing limitation of Contractor's Delay Liquidated Damages.

B. ***Exceptions to Limitations of Liability Under Section 20.3***. Section 20.3A shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve Substantial Completion and Final Completion and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.3 apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel.

20.4 **Delay Liquidated Damages In General**.

A. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages

and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of the per Day rate of the Delay Liquidated Damages on the basis that such per Day rate constitutes a penalty or is otherwise unenforceable or invalid. If Contractor, Guarantor or anyone on their behalf successfully challenges the per Day rate of any Delay Liquidated Damages, Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement. For the avoidance of doubt, this Section 20.4A shall not preclude Contractor from contesting whether it is responsible for delays giving rise to Owner's claims for Delay Liquidated Damages.

B. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement. Notwithstanding the foregoing: (1) Substantial Completion Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for delay in achieving Substantial Completion of the Train 1 Expansion, (2) the Record As-Built Delivery Requirement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving the Record As-Built Delivery Requirement, (3) the RLFC Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in readiness to load the LNG Tanker as set forth in Section 11.1D and (4) the MCHE Replacement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving Substantial Completion due to an MCHE Replacement Scenario.

20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES; *PROVIDED THAT* THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 20.5 SHALL NOT APPLY: (I) TO THE DELAY LIQUIDATED DAMAGES SET OUT IN SECTION 13.2; (II) TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS BROUGHT BY ANY THIRD PARTY; OR (III) WHERE CONSEQUENTIAL DAMAGES ARE EXPRESSLY PERMITTED UNDER SECTION 20.4A. FOR THE PURPOSES OF THIS SECTION 20.5, THE TERM "THIRD PARTY" SHALL MEAN ANY PERSON OTHER THAN CONTRACTOR, OWNER OR ANY OF THEIR RESPECTIVE AFFILIATES. AS USED IN THIS SECTION 20.5, OWNER SHALL MEAN THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR SHALL MEAN THE CONTRACTOR INDEMNIFIED PARTIES AND CONTRACTOR'S SUBCONTRACTORS AND SUB-SUBCONTRACTORS.

20.6 **Owner Separate Contracts**. In any separate contract which Owner enters into after the Effective Date with technical consultants and contractors (other than Contractor) for the construction of the Train 1 Expansion, Owner shall use reasonable efforts to provide that indemnities running to the benefit of Owner in such contracts shall also run to the benefit of Contractor.

20.7 **Continuing Rights and Obligations**. Owner and Contractor agree that (i) FLIQ CF, FLEX, FLNG Development, FLIQ2 and each of their Affiliates, (ii) any present holder of any ownership interest in the Train 1 Expansion or this Agreement, (iii) any future recipient of any ownership interest in the Train 1 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.

20.8 **Application of Liability Limitations**.

A. Except to the extent prohibited by the governing law specified in Section 21.9, or as stated in the terms of this Agreement, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability and indemnities expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract or otherwise of the Person released or whose liability is waived, disclaimed, limited, fixed or indemnified.

B. Except as specifically stated in Section 8.2A.1 (with respect to the policy deductibles for builder's risks or marine cargo insurance), no liabilities incurred by Contractor arising from the Train 2 EPC Agreement (including any delay liquidated damages assessed thereunder) shall accrue against any limitations of liability under this Agreement (including the limitations of liability set forth in Sections 20.1 and 20.3). Conversely, no liabilities incurred by Contractor arising under this Agreement (except the aforementioned portion of Section 8.2A.1), including any Delay Liquidated Damages assessed hereunder, shall accrue against any limitations of liability under the Train 2 EPC Agreement.

ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 **Entire Agreement**. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, and the Equipment Sharing Agreement (once executed) contain the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto; *provided that*, with respect to the Common Development Work, the Train 2 EPC Agreement, the Equipment Sharing Agreement and this Agreement, collectively, contain the entire understanding of the Parties and incorporate any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement or the Equipment Sharing Agreement or, with respect to the Common Development Work, the Train 2 EPC Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no

applicability to Owner with respect to this Agreement. Notwithstanding anything to the contrary herein, with respect to the FEED Agreement, this Agreement and the Equipment Sharing Agreement supersede such FEED Agreement only to the extent of the work performed under the FEED Agreement that relates to the Scope of Work under this Agreement. All Work performed under the FEED Agreement and any other agreements between the Parties relating to the Scope of Work under this Agreement shall be governed by the terms and conditions set forth in this Agreement and the Equipment Sharing Agreement and, with respect to the Common Development Work, the Train 2 EPC Agreement. For purposes of clarity, the FEED Agreement shall remain effective as to any work performed thereunder that is not related to the Scope of Work under this Agreement (including that work relating to a third liquefaction train, and its corresponding pretreatment facilities, that may be located at or near the Site).

21.2 **Amendments**. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1C or Section 6.2D, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 **Joint Effort**. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

21.4 **Captions**. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.5 **Notice**. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be either (i) hand delivered; (ii) delivered by same-day or overnight courier; (iii) delivered by facsimile with written confirmation of complete transmittal; or (iv) delivered by certified mail, return receipt requested, to the other Party at the address set forth below.

A. <u>If delivered to Owner</u>:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: Mark Mallett

with a copy to:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: General Counsel

B. If delivered to Contractor:

CB&I/Zachry Joint Venture
c/o CB&I Inc.
6001 Rogerdale
Houston, Texas 77072
Facsimile: 713-485-1005
Attn: Chet Lloyd

with a copy to:

CB&I Inc.
2103 Research Forest Blvd.
The Woodlands, Texas 77380
Facsimile: 832-513-1591
Attn: General Counsel

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed to be received: (1) if delivered by hand, by same-day or overnight courier service, or certified mail on the date actually received at the address of the intended recipient; or (2) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.

21.6 **Severability**. The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

21.7 **Assignment**. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except Owner may assign this Agreement, in whole or part, to any of its Affiliates or any of its co-venturers or to any Person who acquires an ownership interest in Owner or the Train 1 Expansion. Furthermore, Owner may assign, pledge and/or grant a security interest in this Agreement that Owner has or which shall hereafter arise in and to Owner and all claims resulting from any failure of performance with any provision of this Agreement to any Lender without Contractor's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.7 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.7 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for Default.

21.8 **No Waiver**. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.9 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, 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 Agreement and shall be disclaimed in and excluded from any Subcontracts entered into by Contractor in connection with the Work or the Train 1 Expansion.

21.10 **Successors and Assigns**. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

21.11 **Attachments and Schedules**. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

21.12 **Obligations**. Nothing contained in this Agreement shall be construed as constituting a joint venture or partnership between Contractor and Owner.

21.13 **Further Assurances**. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. In addition, Contractor agrees to cooperate with any Lender (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement, (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not adversely affect the rights, obligations and liability limitations of Contractor hereunder and Contractor's entitlement to payment in accordance with this Agreement, and (iv) to take such action or execute such documentation as any Lender shall reasonably require.

21.14 **Priority**. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority:

A. Change Orders or written amendments to this Agreement;

B. this Agreement; and

C. Attachments and Schedules to this Agreement.

21.15 **Restrictions on Public Announcements**. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs of any part of the Facility (except as may be included in a Monthly Progress Report) or (ii) publicly refer to the Work, the Train 1 Project or any part of the Facility in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work, the Train 1 Project or any part of the Facility without the prior written consent of Owner (which shall not be unreasonably withheld). Under no circumstance shall Contractor permit access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner.

21.16 **Parent Guarantee**. CB&I Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Zachry Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. The guarantee contained in this Section 21.16 is unconditional and irrevocable. Each of the guarantees provided by CB&I Guarantor and Zachry Guarantor are individually referred to as a "***Parent Guarantee***" and collectively as "***Parent Guarantees***."

21.17 **Foreign Corrupt Practices Act**. With respect to the performance of the Work, each Party shall, and shall cause each of its contractors (or, in the case of Contractor, its Subcontractors and Sub-subcontractors), and the agents and employees of each of them to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2), as amended (or, if such act is not applicable to a Person, to act in such manner that would comply with the provisions of such act were it applicable to such Person). Neither Party shall take any action that could result in the other Party or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such Act and shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties, in order to obtain or maintain business.

21.18 **Language**. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language, unless otherwise directed by Owner in writing.

21.19 **Counterparts**. This Agreement may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by each of the Parties. Facsimile signatures shall be deemed as effective as original signatures.

21.20 **Owner's Lender(s)**. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain financing for or in connection with the Train 1 Project and Contractor agrees to cooperate with Owner and any Lender in connection with such financing (and any refinancing), including delivering, as a condition to any such financing or refinancing, such documentation and information as is

customary for a financing or refinancing of such type and entering into direct agreements with such Lender, as required by such Lender, covering matters that are customary in a financing or refinancing of such type, including: Lender assignment or security rights with respect to this Agreement; opinions; direct notices to Lender, with applicable cure periods, prior to any termination, suspension or other similar action; step-in/step-out rights; an obligation on the Parties not to amend the Agreement without Lender's consent; access by such Lender's representative and other matters applicable to such financing or refinancing. Contractor acknowledges and agrees that Owner's issuance of NTP is contingent upon obtaining such non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner may terminate this Agreement for convenience in accordance with Section 16.2.

21.21 **Joint and Several Liability**. Contractor is a joint venture comprised of: (i) CB&I Inc., a Texas corporation ("***CB&I***") and (ii) Zachry Industrial, Inc., a Delaware corporation ("***Zachry***"). CB&I and Zachry agree on behalf of themselves and their respective insurers and guarantors to be jointly and severally responsible and liable to Owner for all of Contractor's duties and obligations under this Agreement and for all claims, damages, costs, expenses and all other liability arising out of or relating to the performance or failure to perform any of Contractor's duties or obligations under this Agreement or otherwise arising out of the Train 1 Project.

21.22 **Coordination Between this Agreement and Train 2 EPC Agreement**.

A. ***Administrative Coordination***. Owner and Contractor acknowledge that Owner and FLIQ2 are concurrently (but separately) developing and financing the Train 1 Expansion and Train 2 Expansion, respectively, and that Contractor is providing the turnkey engineering, procurement and construction services for both the Train 1 Expansion and the Train 2 Expansion in accordance with this Agreement and the Train 2 EPC Agreement. Notwithstanding the separate agreements under which the Train 1 Expansion and Train 2 Expansion will be developed, the Parties intend to use commercially reasonable efforts to minimize administrative duplication and expense where reasonably practicable.

B. ***Coordination of Contractor's Work and Effects of Contractor's Acts or Omissions between this Agreement and the Train 2 EPC Agreement***. Contractor acknowledges that Contractor, in accordance with the Train 2 EPC Agreement, will design, engineer, procure, construct, pre-commission, commission, start-up and test the Train 2 Expansion while concurrently performing the Work under this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor further acknowledges that any work performed by (or on behalf of) Contractor under the Train 2 EPC Agreement (as such agreement may be modified from time to time in accordance with the terms thereof), as well as any acts or omissions of Contractor, or any of its subcontractors or sub-subcontractors in connection with the Train 2 EPC Agreement or Train 2 Expansion, shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 1 Project Schedule or any other Changed Criteria under this Agreement unless such circumstance relates to the Common Development Work and also entitles Contractor to a Change Order under Section 6.2A herein.

C. ***Coordination of FLIQ2 Directives under the Train 2 EPC Agreement***. The Parties agree and acknowledge that no act, instruction or direction by FLIQ2, or anyone acting for or on behalf of FLIQ2 under the Train 2 EPC Agreement, shall entitle Contractor to any modification of the Contract Price, Train 1 Project Schedule or any other Changed Criteria under this Agreement unless (i) such instruction or direction relates to the Common Development Work and is approved by Owner in writing (which such written approval may come in the form of Owner providing substantially identical instruction or direction in accordance with this Agreement) or (ii) the instruction or direction originates from a change order request by FLIQ2 under the Train 2 EPC Agreement for which Contractor provides timely notice to Owner under Section 6.3 and that is ratified by Owner pursuant to Section 6.3.

D. ***Coordination of Relief to Contractor as a Result of Force Majeure Under the Train 2 EPC Agreement***. Contractor and Owner acknowledge that an event of "Force Majeure" (as defined in the Train 2 EPC Agreement) which only directly impacts the Train 2-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 1 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 1 Project Schedule to the extent allowed under, and in accordance with, Section 6.8 (including, as required by such Section 6.8, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

E. ***Coordination of Relief to Contractor as a Result of Certain Owner-Assumed Risks Under the Train 2 EPC Agreement***. Contractor and Owner acknowledge that a circumstance providing Contractor with relief under Section 6.9 of the Train 2 EPC Agreement which only directly impacts the Train 2-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 1 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 1 Project Schedule to the extent allowed under, and in accordance with, Section 6.9 of this Agreement (including, as required by such Section 6.9, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

F. ***Limitation of Rights and Relief between this Agreement and the Train 2 EPC Agreement***. Except as set forth in this Section 21.22, and for purposes of clarity, any event or circumstance entitling Contractor to a change order under the Train 2 EPC Agreement shall not, in and of itself, entitle Contractor to a Change Order under this Agreement unless such event or circumstance, separately, entitles Contractor to a Change Order under Section 6.2A.

21.23 **Survival**. Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 16, Article 17, Article 18 and Article 19, Article 20, Sections 3.6, 3.8, 3.13, 3.14, 3.17, 4.5, 4.6, 8.1, 8.2, 11.10, 21.1, 21.9, 21.16, 21.21 and this Section 21.23 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their

nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Owner:

FLNG LIQUEFACTION, LLC

By: Freeport LNG Expansion, L.P., its sole member

By: Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

Contractor:

ZACHRY INDUSTRIAL, INC.

By:_____
Name: John B. Zachry
Title: Chief Executive Officer

CB&I INC.

By: _____
Name: Philip Asherman
Title: Chief Executive Officer

Acknowledged by Freeport LNG Expansion, L.P., but only for purposes of partially superseding the FEED Agreement pursuant to Section 21.1.

FREEPORT LNG EXPANSION, L.P.

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

[Signature Page Continues]

Acknowledged by FLIQ Common Facilities, LLC, but only for purposes of: (i) having the right, but not the obligation, to make payments to Contractor pursuant to Section 7.14, (ii) taking title to the Work pursuant to Section 8.1, (iii) gaining rights in Work Product related to the Common Development Work pursuant to Section 10.1, and (iv) granting Contractor a license in certain Work Product pursuant to Section 10.3.

FLIQ COMMON FACILITIES, LLC

By Freeport LNG Expansion, L.P., its sole member

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

EXHIBIT D

Execution Version

PARENT GUARANTEE

This GUARANTEE (this "***Guarantee***"), dated as of **December 10, 2013**, is made by Zachry Holdings, Inc., a Delaware corporation ("***Guarantor***"), in favor of FLNG Liquefaction, LLC, a Delaware limited liability company ("***Owner***," and, together with Guarantor, each a "***Party***" and, collectively, the "***Parties***"). Capitalized terms used, but not otherwise defined, herein shall have the respective meanings ascribed to such terms in the Agreement (as defined below).

RECITALS

WHEREAS, Owner has agreed to enter into the Fixed Price Separated Turnkey Agreement for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project, dated **December 10, 2013**, with Zachry Industrial, Inc. and CB&I Inc. (collectively under a joint venture agreement, the "***Contractor***") for the engineering, procurement, construction, commissioning, start-up and testing of a natural gas pretreatment, liquefaction, storage and LNG loading terminal located near Freeport, Texas (the "***Agreement***"), which is hereby incorporated by reference in this Guarantee and made a part hereof; and

WHEREAS, Guarantor is the parent company of Zachry Industrial, Inc., which is a member of the joint venture that comprises the Contractor; and

WHEREAS, it is a condition to Owner and Contractor's entering into the Agreement that Guarantor execute and deliver this Guarantee.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Guarantee.

(a) On the terms and subject to the conditions contained herein, Guarantor hereby absolutely, unconditionally and irrevocably guarantees, to and for the benefit of Owner, the full and punctual performance and payment as and when such payment or performance becomes due (whether at the stated due date, by acceleration or otherwise), by or on behalf of Contractor of any and all obligations or amounts owed by Contractor to Owner in connection with and to the extent provided for in the Agreement (the "***Guaranteed Obligations***"). The Guaranteed Obligations of Guarantor hereunder are direct and primary obligations.

(b) This Guarantee is an absolute, unconditional, present, and continuing guarantee of performance and payment, and not of collection, is in no way conditioned or contingent upon any attempt to collect from or enforce performance or payment by Contractor or upon any other event, contingency or circumstance whatsoever, and shall remain in full force and effect and be binding upon and against Guarantor and its successors and permitted assigns (and shall inure to the benefit of Owner and its successors, endorsees, transferees, and permitted assigns). If, for any reason, Contractor shall fail or be unable duly, punctually, and fully to perform or pay, as and when such performance or payment is due, any of the Guaranteed Obligations, Guarantor shall promptly perform or pay, or cause to be performed or paid, such Guaranteed Obligations.

(c) Guarantor agrees that any judgment between Contractor and Owner under the Agreement (whether in contested litigation or arbitration, by default or otherwise) shall be conclusive and binding on the Parties for the purposes of determining Guarantor's obligations under the Guarantee.

2. Obligations Absolute and Unconditional, Continuing; Etc. Guarantor agrees that the obligations of Guarantor set forth in this Guarantee shall be direct obligations of Guarantor, and such

2. **Obligations Absolute and Unconditional, Continuing; Etc.** Guarantor agrees that the obligations of Guarantor set forth in this Guarantee shall be direct obligations of Guarantor, and such obligations shall be absolute, irrevocable and unconditional, shall not be subject to any counterclaim, set-off, deduction, diminution, abatement, recoupment, suspension, deferment, reduction or defense (other than full and strict compliance with its obligations hereunder) based upon any claim Guarantor or any other Person may have against Owner or any other Person and shall remain in full force and effect without regard to and shall not be released, discharged or in any way affected or impaired by, any circumstance or condition whatsoever (other than full and strict compliance by Guarantor with its obligations hereunder) (whether or not Guarantor shall have any knowledge or notice thereof), including, without limitation: (i) any amendment or modification of or supplement to or other change in the Agreement or any other document, including, without limitation, any change order, renewal, extension, acceleration or other changes to payment terms thereunder; (ii) any failure, omission or delay on the part of Owner or any other Person to confirm or comply with any term of the Agreement or any other document, (iii) any exercise or non-exercise of any right, remedy, power, or privilege under or in respect of any such instrument or agreement or any such obligation or liability; (iv) any bankruptcy, insolvency, reorganization, arrangement, readjustment, liquidation, or similar proceeding with respect to Owner, Contractor or any other Person or any of their respective properties, or any action taken by any trustee or receiver or by any court in any such proceeding; (v) any merger or consolidation of Guarantor, Contractor or any other Person into or with any other Person or any sale, lease or transfer of all or any of the assets of Guarantor, Contractor or any other Person; (vi) any change in the ownership of Guarantor, Contractor, or any other Person; (vii) any winding up or dissolution of Contractor; or (viii) to the extent permitted under Applicable Law, any other occurrence or circumstance whatsoever, whether similar or dissimilar to the foregoing, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of guarantor or surety or which might otherwise limit recourse against Guarantor. The Guaranteed Obligations constitute the full recourse obligations of Guarantor enforceable against it to the full extent of all its assets and properties. Without limiting the generality of the foregoing, Guarantor agrees that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, Contractor shall fail to perform obligations or pay amounts owed by Contractor under the Agreement and that notwithstanding the recovery hereunder for or in respect of any given failure to so comply by Contractor under the Agreement, this Guarantee shall remain in full force and effect and shall apply to each and every subsequent such failure. Guarantor's obligations and liability under this Guarantee shall not exceed the obligations and liabilities of Contractor under the Agreement, including, without limitation, Contractor's limitations of liability set forth in Article 20 of the Agreement; *provided that*, the foregoing statement shall not be interpreted to relieve Guarantor of any Guaranteed Obligations or preclude any remedy available to Owner due to any of the circumstances in Sections 2(a)(iv) or 2(a)(vii) above.

3. **Reinstatement.** Guarantor agrees that this Guarantee shall be automatically reinstated with respect to any payment made by or on behalf of Contractor pursuant to the Agreement if and to the extent that such payment is rescinded or must be otherwise restored, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

4. **Waiver of Demands, Notices; Etc.** Guarantor hereby unconditionally waives, to the extent permitted by Applicable Law: (i) notice of any of the matters referred to in Section 2 hereof; (ii) all notices which may be required by Applicable Law, or otherwise, now or hereafter in effect, to preserve any rights against Guarantor hereunder, including, without limitation, any demand, proof, or notice of non-payment or non-performance of any Guaranteed Obligation; (iii) notice of acceptance of this Guarantee, demand, protest, presentment, notice of failure of performance or payment, and any requirement of diligence; and (iv) any requirement to exhaust any remedies or to mitigate any damages resulting from failure of performance or payment by Contractor under the Agreement or by any other Person under the terms of the Agreement.

5. No Subrogation. Notwithstanding any performance, payment or payments made by Guarantor hereunder (or any set-off or application of funds of Guarantor by Owner), Guarantor shall not be entitled to be subrogated to any of the rights of Contractor (or of any rights of Owner hereunder), or any collateral, security, or guarantee or right of set-off held by Owner, for the performance or payment of the obligations guaranteed hereunder, nor shall Guarantor seek or be entitled to assert or enforce any right of contribution, reimbursement, indemnity or any other right to payment from Contractor as a result of Guarantor's performance of its obligations pursuant to this Guarantee until all Guaranteed Obligations are performed or paid in full. If any amount shall be paid to Guarantor on account of such subrogation, contribution, reimbursement or indemnity rights at any time when all of the Guaranteed Obligations and all amounts owing hereunder shall not have been performed and paid in full, such amount shall be held by Guarantor in trust for Owner, segregated from other funds of Guarantor, and shall, forthwith upon receipt by Guarantor, be turned over to Owner in the exact form received by Guarantor (duly endorsed by Guarantor to Owner, if required), to be applied against the Guaranteed Obligations, whether or not matured, in such order as Owner may determine.

6. Representations and Warranties. Guarantor represents and warrants that:

(a) it is a corporation duly organized and validly existing under the laws of the Delaware and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guarantee;

(b) the execution, delivery and performance of this Guarantee will not conflict with, violate or breach the terms of any agreement of Guarantor;

(c) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guarantee; and

(d) this Guarantee, when executed and delivered, will constitute a valid and legally binding agreement of Guarantor, except as the enforceability of this Guarantee may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity as they apply to the Guarantor.

7. Miscellaneous.

(a) This Guarantee shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. Guarantor may not assign or transfer this Guarantee or any rights or obligations hereunder without Owner's prior written consent. Owner shall have the same rights of assignment of this Guarantee as it has for the Agreement as set forth in Section 21.7 of the Agreement, including the rights to grant a security interest in this Guarantee to any Lender. Except as otherwise provided in this Section 7, nothing herein, express or implied, is intended or shall be construed to confer upon or to give to any Person other than the Parties hereto any rights, remedies, or other benefits.

(b) This Guarantee shall be governed by, and construed in accordance with, the laws of the State of Texas, without giving effect to the principles thereof relating to conflicts of law.

(c) The Parties agree that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with, or relating in any way to this Guarantee (including, without limitation, the construction, validity, interpretation, termination, enforceability or breach of this Guarantee, the relationship of the Parties established by this Guarantee, or any dispute over jurisdiction) ("***Dispute***") shall be decided by litigation pursuant to this Section 7(c). Each Party (i) irrevocably submits to the

exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Guarantee, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail in accordance with the notice provisions of this Guarantee, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. At Owner's sole option, Contractor may be joined in the litigation between Owner and Guarantor, or Guarantor shall be required to join any litigation between Owner and Contractor under the Agreement. In addition, at Owner's sole option, any other Person may be joined as an additional party to any litigation conducted under this Section 7(c), *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. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdictions.

(d) No modification or amendment of this Guarantee shall be of any force or effect unless made in writing, signed by the Parties hereto, and specifying with particularity the nature and extent of such modification or amendment. This Guarantee constitutes the entire and only understanding and agreement among the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior negotiations, proposals, representations, understandings, commitments, communications, or agreements, whether oral or written, with respect to the subject matter hereof.

(e) All notices, demands, offers, requests and other written instruments required or permitted to be given pursuant to this Guarantee shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by overnight courier, messenger, facsimile or certified mail, return receipt requested, to the other Parties at the address set forth below.

If to Owner:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Attn: Mark Mallett
Facsimile: 713-980-2903

with a copy to:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Attn: General Counsel
Facsimile: 713-980-2903

If to Guarantor:

Zachry Holdings, Inc.
527 Logwood
San Antonio, Texas 78221
Attn: Kirk McDonald
Facsimile: 210-588-5380
Telephone No.: 210-588-5824

with a copy to:

Zachry Holdings, Inc.
527 Logwood
San Antonio, Texas 78221
Attn: General Counsel
Facsimile: 210-588-6528

Each Party shall have the right to change the place to which such notices shall be sent or delivered by sending a similar notice to the other Parties in like manner. Notices, demands, offers, requests or other written instruments shall be deemed to have been duly given on the date actually received by the intended recipient, provided that if the day of receipt is not a Business Day then it shall be deemed to have been received on the next succeeding Business Day.

(g) The headings of the several provisions of this Guarantee are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Guarantee.

(h) No forbearance or delay by Owner in asserting rights against Contractor shall affect or impair in any way Guarantor's obligations hereunder or the rights of Owner hereunder.

(i) In addition to other assurances provided in this Guarantee, Guarantor acknowledges that Owner intends to obtain financing associated with the Train 2 Project and Guarantor agrees to cooperate with Owner and Lender in connection with such financing, including, but not limited to, entering into direct agreements with Lender, as required by Lender, covering matters that are customary in financings of this type such as Lender assignment or security rights with respect to this Guarantee, direct notices to Lender, step-in/step-out rights, access by Lender's representative (including its independent engineer) and other matters applicable to such financing.

(j) The term "***Person***" shall mean any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, governmental entity or other entity having legal capacity.

(k) This Guarantee may be executed in any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have duly executed this Guarantee as of the date first above written.

ZACHRY HOLDINGS, INC.

By: _____
Name: D. KIRK McDONALD
Title: Executive Vice President

FLNG LIQUEFACTION, LLC

By: _____
Name: Michael Smith
Title: Chief Executive Officer

ACKNOWLEDGED BY SUBSIDIARY:

ZACHRY INDUSTRIAL, INC.

By: _____
Name: Ralph Biddiger
Title: President

EXHIBIT 10

Proof of Claim No. 1502

Your claim can be filed electronically on Verita's website at https://www.veritaglobal.net/zhi

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

United States Bankruptcy Court for the Southern District of Texas, Houston Division

Indicate Debtor against which you assert a claim by checking the appropriate box below. (**Check only one Debtor per claim form.**)

☒ Zachry Holdings, Inc. (Case No. 24-90377)	☐ Zachry Constructors, LLC (Case No. 24-90384)	☐ Zachry Maintenance Services, LLC (Case No. 24-90395)
☐ Computer Simulation & Analysis, Inc. (Case No. 24-90391)	☐ Zachry Engineering Corporation (Case No. 24-90379)	☐ Zachry Nuclear Construction, Inc. (Case No. 24-90388)
☐ J.V. Industrial Companies, LLC (Case No. 24-90396)	☐ Zachry Enterprise Solutions, LLC (Case No. 24-90386)	☐ Zachry Nuclear Engineering, Inc. (Case No. 24-90390)
☐ JVIC Fabrication, LLC. (Case No. 24-90393)	☐ Zachry EPC Holdings, LLC (Case No. 24-90378)	☐ Zachry Nuclear, Inc. (Case No. 24-90389)
☐ Madison Industrial Services Team, LLC (Case No. 24-90397)	☐ Zachry High Voltage Solutions, LLC (Case No. 24-90381)	☐ Zachry Plant Services Holdings, Inc. (Case No. 24-90392)
☐ Moss Point Properties, LLC (Case No. 24-90387)	☐ Zachry Industrial Americas, Inc. (Case No. 24-90394)	☐ ZEC Michigan, Inc. (Case No. 24-90383)
☐ UE Properties, Inc. (Case No. 24-90382)	☐ Zachry Industrial, Inc. (Case No. 24-90385)	☐ ZEC New York, Inc. (Case No. 24-90380)

Modified Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed, May 21, 2024.

Part 1: Identify the Claim

1. **Who is the current creditor?**

FLNG Liquefaction 2, LLC
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☒ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

(see addendum for full notice list)

Where should notices to the creditor be sent?

FLNG Liquefaction 2, LLC
Name
333 Clay Street, Suite 5050
Number Street
Houston, TX 77002-4173
City State ZIP Code
United States of America
Country
Contact phone 713-980-2888
Contact email sottis@freeportlng.com

Where should payments to the creditor be sent? (if different)

Name
Number Street
City State ZIP Code
Country
Contact phone _____
Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☒ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ Undetermined. **Does this amount include interest or other charges?**

☐ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

If applicable, the claim must include information regarding payment received from any third party on account of, in connection with, or otherwise relating to the claim. Please list such information in the supporting documentation to the claim.

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Guarantee of contractual obligations - see attached addendum

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

9. **Is all or part of the claim secured?**

☒ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☒ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☒ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/13/2024
MM / DD / YYYY

Shaw Ottis Digitally signed by Shaw Ottis
Date: 2024.09.13 14:43:06 -05'00'
Signature

Print the name of the person who is completing and signing this claim:

Name: Shaw (First name) Christopher (Middle name) Ottis (Last name)

Title: SVP, General Counsel & Secretary

Company: FLNG Liquefaction 2, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 333 Clay St., Suite 5050
Number Street

Houston (City) TX (State) 77002 (ZIP Code) USA (Country)

Contact phone: 713-980-2894 Email: sottis@freeportlng.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*,[1]	Case No. 24-90377 (MI)
Debtors.	(Jointly Administered)

ADDENDUM TO PROOF OF CLAIM OF FLNG LIQUEFACTION 2, LLC

FLNG Liquefaction 2, LLC ("FLNG 2") hereby submits this addendum to its Proof of Claim (the "Claim") against Zachry Holdings, Inc. ("Zachry Holdings") and respectfully states as follows:

Background

1. On April 23, 2024, FLNG 2 and affiliated entities filed suit in the 133rd Judicial District Court of Harris County, Texas (the "State Court"), asserting a state law breach of contract claim against Zachry Industrial Inc. ("Zachry Industrial"), CB&I, Inc., and Chiyoda International Corporation after discovering significant defects in the performance of their work on a natural gas liquefaction and liquified natural gas export facility, resulting in substantial costs, the shut-down of operations, and other damages (the "Facilities Defects Case"). **Exhibit B**.

2. On May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, jointly administered under Case No. 24-90377.

3. On July 31, 2024, Zachry Industrial removed the Facilities Defects Case from State

[1] The debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/zhi. The Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

Court to the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. 1452(a).

4. On August 28, 2024, the Facilities Defects Case was referred to this Court. The Facilities Defects Case is yet to be adjudicated.

5. FLNG 2's Claim against Zachry Holdings is predicated on guarantee obligations by Zachry Holdings under the *Fixed Price Separated Turnkey Agreement for the Engineering, Procurement, and Construction of the Freeport Train 2 Liquefaction Project by and between FLNG Liquefaction 2, LLC as Owner and Zachry Industrial, Inc., CB&I Inc., and Chiyoda International Corporation as Contractor* (the "EPC") dated December 10, 2013. *See* **Exhibit C**. Pursuant to Article 21.16 and the Parent Guarantee [2] to the EPC, Zachry Holdings unconditionally and irrevocably guarantees the full and faithful performance of all obligations of Zachry Industrial under the EPC.

6. Because of the voluminous nature of the documents supporting this Claim, the fact that such documents contain confidential or commercially sensitive information, and based on consent from the Debtors, not all such documents are annexed hereto. FLNG 2 has made or will make such documents available to the Debtors. Such documents will also be made available to the Official Committee of Unsecured Creditors upon written request and subject to appropriate confidentiality restrictions.

Reservation of Rights

7. FLNG 2 does not waive, and expressly reserves, (i) all rights and remedies at law or in equity that FLNG 2 has or may have against Zachry Holdings, any of the Debtors, any of their respective affiliates and subsidiaries, or any other person or entity who may be liable for all

[2] *See* **Exhibit D**.

or part of the claims set forth herein; (ii) any obligation owed to FLNG 2 or any right to any security or to assert any security interest that may be determined to be held by FLNG 2; (iii) FLNG 2's right to have final orders in non-core matters, or core matters to which *Stern v. Marshall* applies, entered only after *de novo* review by a United States District Court Judge; and (iv) any right to (a) withdraw the reference, or otherwise challenge the jurisdiction of the Court, with respect to the subject matter of the Claim, any objection or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 2, (b) assert that the reference has already been withdrawn with respect to the subject matter of the Claim, any objection or other proceeding commenced with respect thereto or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 2, or (c) seek adjudication of its Claim in any court of competent jurisdiction on any basis, including mandatory abstention, permissive abstention, or equitable remand.

8. The filing of this Claim is not, nor shall it be deemed or construed to be: (i) a waiver or release of any term or provision of any agreement between FLNG 2 and Zachry Holdings or any agreement governing the relationship between FLNG 2 and Zachry Holdings; (ii) an election of remedies or waiver of any past, present or future breaches of any agreement between FLNG and Zachry Holdings or any agreement governing the relationship between FLNG 2 and Zachry Holdings; (iii) a waiver or limitation of any procedural or substantive rights of FLNG 2 or any procedural or substantive defenses to any claim that may be asserted against FLNG 2; (iv) a waiver or release of, or any other limitation on, FLNG 2's right to assert that any portion of the claims asserted herein or any other claims are entitled to priority, including, without limitation, under sections 503(b) and 507(a)(2) of the Bankruptcy Code; (v) a waiver of any right to claim specific assets; or (vi) a waiver or release of any lien or security interest. In addition, FLNG 2 reserves the

right to withdraw this Claim in its entirety or with respect to any portion thereof for any reason whatsoever.

9. FLNG 2 expressly reserves the right to (i) amend, modify, update, or supplement the Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify, or correct amounts, to provide additional detail regarding the claims set forth herein, to fix the amount of any disputed, contingent or unliquidated claim, or to assert any alternative theories or bases for recovery; (ii) file additional proofs of claim, administrative expense claims or requests for payment of any administrative expenses, or pleadings for additional claims that may be based on the same or additional documents; and (iii) assert any and all other claims, actions, defenses, setoffs, recoupments, rights, right of action, causes of action, claims or remedies of whatever kind or nature that it currently has, or may have in the future against the Debtors and/or any of their respective affiliates and subsidiaries, or any other person or entity (including, without limitation, guarantors, partners, officers, directors, and other creditors of the Debtors), at law or in equity, including, without limitation, administrative or other priority claims, lien rights, interests, and the right to assert claims that are otherwise warranted in any related actions. This Claim is filed without prejudice to the filing by FLNG 2 of additional proofs of claim or administrative expense claims with respect to any other liability or indebtedness of and/or equity interest in the Debtors.

10. FLNG 2 does not waive or release any of its rights to amounts due for any claim asserted herein by not ascribing a specific dollar amount thereto at this time, and FLNG 2 expressly reserves the right to amend or supplement this Claim if it deems it necessary or appropriate, to assert and state an amount for any such claim.

11. The Claim is not subject to objection, defense, setoff, recoupment, or counterclaim

of any kind by the Debtors. FLNG 2 expressly reserves and does not waive any objections, defenses, rights of set-off or recoupment, or counterclaims, that it may possess. No judgment has been rendered on the Claim.

12. By filing this Claim, FLNG 2 does not consent to or submit itself to the jurisdiction of the Court for any purpose except in respect of the allowance of this Claim for any and all amounts due in connection herewith.

Notices

13. All notices, communications, and distributions in respect of this Claim should be delivered to:

FLNG Liquefaction, LLC
333 Clay St., Suite 5050
Houston, TX 77002
Attention: Shaw Christopher Ottis
Phone: 713-980-2894
Email: sottis@freeportlng.com

And

Christopher Taylor
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2058
Email: ctaylor@kslaw.com

Mike Stenglein
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2003
Email: mstenglein@kslaw.com

Michael Fishel
King & Spalding LLP
1100 Louisiana, Suite 4100
Houston, TX 77002
Phone: (713) 276-7369
Email: mfishel@kslaw.com

EXHIBIT B

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

Cause No. _____

FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	**_____ JUDICIAL DISTRICT**
v.	§	
CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION	§	**HARRIS COUNTY, TEXAS**
Defendants.	§	

PLAINTIFFS' ORIGINAL PETITION

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, 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.

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III. DISCOVERY LEVEL

3. This case is intended to be conducted under Discovery Level 3 in accordance with Texas Rule of Civil Procedure 190.4.

IV. PARTIES

4. Plaintiff FLNG Liquefaction, LLC ("FLIQ1") is a Delaware limited liability company with its principal place of business in Houston, Texas.

5. Plaintiff FLNG Liquefaction 2, LLC ("FLIQ2") is a Delaware limited liability company with its principal place of business in Houston, Texas.

6. Plaintiff FLNG Liquefaction 3, LLC ("FLIQ3") is a Delaware limited liability company with its principal place of business in Houston, Texas.

7. Defendant CB&I Inc. ("CB&I") is a Texas corporation with its principal place of business in Houston, Texas. CB&I may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Zachry Industrial, Inc. ("Zachry") is a Delaware corporation with its principal place of business in San Antonio, Texas. Zachry may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Chiyoda International Corporation ("Chiyoda") is a Washington corporation with its principal place of business in Houston, Texas. Chiyoda may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

V. JURISDICTION & VENUE

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.020 because the written agreements at issue involve "major transactions" as defined

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under the statute, and the parties agreed to venue in Harris County. Specifically, the agreements at issue provide that each party "irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas."

11. This Court has subject matter jurisdiction over this dispute because the amount in controversy is within the jurisdictional limits of this Court.

12. This Court has personal jurisdiction over Defendants because they are citizens of Texas by virtue of having their principal places of business in Texas. Further, Defendants conduct business in Texas, including but not limited to, by entering into contractual relationships and performing work in Texas and maintaining offices and employees in Texas. Defendants have purposefully availed themselves of the benefits and protections of the State of Texas by establishing minimum contacts here, and this Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

VI. FACTUAL BACKGROUND

A. Freeport LNG's Quintana Island Facility

13. Freeport LNG Development, L.P. ("Freeport LNG") is one of the first and largest exporters of LNG. With its joint venture partners, Freeport LNG owns and operates an LNG facility located on Quintana Island near Freeport, Texas (the "LNG Facility").

14. The LNG Facility was previously an LNG import and regasification facility (the "Regas Facility") featuring two 160,000 cubic meter LNG storage tanks, a marine dock that could accommodate the largest LNG tankers in service, and an LNG vaporization system capable of producing over 2 billion cubic feet (Bcf) of gas per day. Construction on the Regas Facility started in 2005, and commercial operations began in 2008. However, by the time the import terminal commenced operations in 2008, the North American natural gas industry had begun to experience

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a sea change—the shale gas revolution.

15. In 2010, to take advantage of excess domestic natural gas reserves due primarily to improvements in extracting gas from shale, Freeport LNG began a project to transform the Regas Facility from an import terminal into a natural gas liquefaction and LNG export facility (as defined above, the "LNG Facility").

16. LNG is natural gas that is super-cooled to transform it from a gaseous state into a liquid for ease and safety of non-pressurized storage and transport. Natural gas is converted to a liquid in a liquefaction plant that performs a sequence of processes, which is often referred to as "liquefying" the natural gas. This liquefaction process takes place in processing units that are often referred to as "trains."

17. The LNG Facility, which currently has three liquefaction processing units, or trains, is the first world-scale electric-powered LNG plant in North America. Train 1 was commissioned and began commercial operations in December 2019. Train 2 and Train 3 commenced operations in January and May 2020, respectively. When operating at full capacity, the output from the Facility's three liquefaction trains is enough to decrease the United States trade deficit by 1-2% alone.

18. Each liquefaction train at the LNG Facility uses three General Electric 75 MW motors that power three propane and mixed-refrigerant compressors. The electric motors used at the LNG Facility were selected to allow Freeport LNG to comply with strict local air emissions standards and meet its production and export targets.

B. The EPC Contracts

19. FLIQ1, FLIQ2, and FLIQ3 are affiliates of Freeport LNG.

20. FLIQ1 developed the first LNG train ("Train 1"). FLIQ2 developed the second

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LNG train ("Train 2"), and FLIQ3 developed the third LNG train ("Train 3").

21. FLIQ1 and FLIQ2 selected CB&I and Zachry, through a joint venture arrangement, to provide all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 1 and Train 2 on a fixed price, turnkey basis.

22. On December 10, 2013, FLIQ1 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 1 EPC Contract").

23. Also on December 10, 2013, FLIQ2 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project ("Train 2 EPC Contract").

24. FLIQ3 selected CB&I, Zachry and Chiyoda, through a joint venture arrangement, to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 3 on a fixed price, turnkey basis.

25. On March 24, 2015, FLIQ3 entered into a Fixed Price Separated Turnkey Agreement with CB&I, Zachry, and Chiyoda for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 3 EPC Contract").

26. The pertinent provisions of the Train 1 EPC Contract, Train 2 EPC Contract, and Train 3 EPC Contract are virtually identical and are referred to collectively in this Petition as the EPC Contracts. CB&I, Zachry, and Chiyoda, as applicable, are referred to in the EPC Contracts collectively as "Contractor," and will be collectively referred to as "Contractor" in this Petition.

C. Defendants' Obligations Under the EPC Contracts

27. The EPC Contracts establish Contractor's substantive performance standards for the Work. Among other obligations, Defendants agreed to perform all engineering, design,

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manufacturing, and fabrication work for Trains 1, 2, and 3 in accordance with applicable codes and standards and in accordance with good engineering and construction practices.

28. Specifically, Section 2.5C of the EPC Contracts provides that:

> "***Contractor shall perform the Work in accordance*** with Applicable Law and ***Applicable Codes and Standards***, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work." (emphasis added).

29. Section 3.1A of the EPC Contracts provides that:

> "***the Work*** shall be performed on a turnkey basis and ***shall include*** all ***engineering***, ***procurement,*** construction, pre-commissioning, start-up and testing of the Train [1, 2, and 3] Expansion, all ***Equipment***, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, ***workmanship, inspection, manufacture***, ***fabrication***, installation, ***design***, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

30. Section 3.1A of the EPC Contracts further provides that:

> "***Contractor shall perform the Work in accordance with GECP***, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement." (emphasis added).

31. The EPC Contracts define "Good Engineering and Construction Practices" or "GECP" as:

> "***the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards*** employed by the liquefied natural gas engineering and construction industries with respect to: (i) the ***engineering, procurement,*** construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A." (emphasis added).

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32. Section 3.2A of the EPC Contracts provides that Contractor's specific obligations include to "***procure***, supply, transport, handle, properly store, ***assemble***, erect and install all ***Equipment***." (emphasis added).

33. Section 3.2B of the EPC Contracts provides that Contractor's specific obligations include to:

> "provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, ***inspection and quality control services required to ensure that the Work is performed in accordance herewith***." (emphasis added).

34. Section 3.2D of the EPC Contracts requires that the Contractor "perform shop and other inspections of the work of Subcontractors and Sub-subcontractors ***to ensure that such work meets all of the requirements of this Agreement***." (emphasis added).

35. Section 3.2R of the EPC Contracts requires that the Contractor "***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement***, including that specified in Section 3.3." (emphasis added).

36. Section 3.3A of the EPC Contracts provides that:

> "Contractor shall, as part of the Work, ***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement*** and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

37. Section 3.3C(6) of the EPC Contracts provides that:

> "Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and ***in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control***." (emphasis added).

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38. Section 3.3D of the EPC Contracts provides that:

> "***Contractor shall perform***, or cause to be performed, all design and ***engineering work in accordance with Applicable Law and Applicable Codes and Standards***, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law." (emphasis added).

39. Section 8.2B of the EPC Contracts provides that Contractor remains responsible for breaches of its obligations under the EPC Contracts following Substantial Completion:

> "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2, and 3] Expansion and each component thereof … after Substantial Completion of the Train [1, 2, and 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." (emphasis added).

40. Section 12 of the EPC Contracts establishes Contractor's Warranties for its Work. Specifically, under Section 12.1B of the EPC Contracts, Contractor warrants that the Work "including Equipment, and each component thereof" shall be:

> "1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;" "2. ***in accordance with all of the requirements of this Agreement***, ***including in accordance with GECP***, Applicable Law and Applicable Codes and Standards;" and "4. ***free from defects in design, material and workmanship***." (emphasis added).

41. Section 12.1C of the EPC Contracts provides:

> "Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; provided, however, ***Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement***, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as ***Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work***." (emphasis added).

42. Section 12.1C of the EPC Contracts further provides:

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> "All such [Subcontractor and Sub-subcontractor] warranties shall be ***deemed to run to the benefit of Owner*** and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be ***enforceable by Owner upon Substantial Completion***. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit ***direct enforcement by Contractor or Owner*** against any Subcontractor or Sub-subcontractor whose warranty is called for." (emphasis added).

43. Section 12.1C of the EPC Contracts also establishes that:

> "***Contractor is jointly and severally liable*** with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty."

44. Section 12.3 of the EPC Contracts establishes Contractor's obligation to perform Corrective Work during the Defect Correction Period, which is defined as the 18-month period following Substantial Completion. However, Section 12.3D of the EPC Contracts makes clear that Contractor remains responsible to Owner for failures to comply with its Warranties under the EPC Contracts:

> "Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the ***Defect Correction Period*** relates only to the specific obligation of Contractor to perform Corrective Work, and ***has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work***." (emphasis added)

D. Defects in the Trains' Motors

45. While the Project experienced Contractor execution delays and other difficulties, after Trains 1, 2, and 3 began commercial operations, no significant defects in Defendants' work were discovered after the expiration of the 18-month Defect Correction Period until recently.

46. On January 17, 2024, the Train 3 Propane Compressor 75 MW Motor ("75 MW Motor") tripped and remained offline, despite several attempts to restart it. Initial investigations indicated that the likely cause of the trip was an electrical fault within a non-accessible portion of

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the 75 MW Motor. A subsequent root cause analysis ("RCA") determined that the direct cause of the 75 MW Motor failure was an electrical short caused by loose hardware (bolts, nuts and washers) within the 75 MW Motor that dislodged from a protective panel where they were installed and fell into the 75 MW Motor windings.

47. Specifically, the RCA identified the following root causes of the loose hardware:

a. *Deficient bolt/washer/nut retention assembly design*: Design was not in accordance with manufacturer recommendations or Good Engineering and Construction Practices ("GECP"). Specifically, ***locking nuts were not used to ensure that the hardware remained tightened in place*** within the 75 MW Motor during normal operations within vibration integrity limits. Additionally, ***Nord-Lock washers were placed on only one side of the bolt step up***, which we understand ***is not in accordance with manufacturer recommendations*** that require a Nord-Lock washer on both the bolt and nut sides for proper fastening.

b. *Inadequate quality assurance/quality control during assembly*: There was ***defective workmanship during assembly, including the use of improper parts, as well as differing metals for similar parts***. For example, bolt assembly components in the 75 MW Motor were a mixture of stainless steel and carbon steel parts, and a large shim washer was found within the 75 MW Motor and is not an approved material in the bill of materials, nor is the use of shim washers part of the proper design of the bolt assembly. In addition, ***multiple bolts were identified as being inadequately torqued***.

48. Similar defects have been identified in two other Train 3 motors, which will also require repairs.

49. The RCA identified a separate Defect in the 75 MW motor that also requires repair in order to prevent premature failure in the future. Specifically, significant partial discharge was found on the cable bundles going from the stator to the motor termination boxes in the 75 MW motor. The cause of the discharge was determined to be the excessive length of the cables and the increased bend radius of the cabling. Cable sheath and insulation damage due to excess partial discharge was also found in the other Train 3 motors, requiring repairs to all three Train 3 motors before they could be placed back into service.

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50. The same 75 MW Motor are utilized in Trains 1 and 2 of the LNG Facility. Given the prevalence of the Defects in the Train 3 motors, Plaintiffs believed that it was likely that the motors in Trains 1 and 2 are affected by the same Defects.

51. As a result, Plaintiffs implemented enhanced monitoring of Trains 1 and 2 and planned to perform inspections of Trains 1 and 2 after the repairs to Train 3 were completed. However, the enhanced monitoring performed on the Train 1 and 2 motors identified an increase in partial discharge and current abnormalities in one of the Train 2 motors. As such, Train 2 was taken offline for inspection prior to the completion of the repairs to Train 3.

52. Inspections of the Train 2 motors revealed additional workmanship issues, even moreso than those found in the inspections of the Train 3 motors. Not only did all 6 bolt assemblies dislodge from the protective micarta panel (as they did in the damaged Train 3 motor), but the micarta panel itself partially separated due to an approximately two-foot long bolt assembly dislodging from the underside of the panel. While one of the two-foot long bolt assemblies remained in place, the other bolt assembly became fully dislodged from the protective panel and appears to have dropped into the rotor portion of the motor and sheared into numerous smaller pieces (which caused additional damage to the motor internals).

53. The inspection of the Train 2 motor also identified substantial damage to the insulation on the motor's stator. The preliminary boroscope inspection of Train 2's 12K-31 motor identified that some bolt assemblies have dislodged from the micarta panels.

54. Given the extent of the faulty workmanship and poor condition of the bolt assemblies and cabling supports identified in Train 2, Plaintiffs made the decision to take Train 1 offline immediately to mitigate any possibility of damage to the Train 1 motors.

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55. FLIQ3 has incurred damages, costs, losses, and expenses as a result of the failure of the 75 MW motor on Train 3 and Contractor's failure to comply with its obligations and Warranties under the EPC Contracts, including investigatory and repair costs, removal and transportation costs for the 75 MW motor to be taken from its installed location to and from the off-site facility for repairs, costs to install a spare 75 MW motor into Train 3, and other costs and expenses incurred by FLIQ3 as a result of the Defects. FLIQ3 also incurred additional damages, costs, losses and expenses to carry out preventative maintenance on the other Train 3 motors.

56. FLIQ1 and FLIQ2 have or will incur similar damages, costs, losses and expenses as a result of the Contractor's failure to comply with its obligations and Warranties under the EPC Contracts in connection with the motors on Trains 1 and 2.

57. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim.

58. All conditions precedent to filing this action have or will soon occur.

VII. CAUSES OF ACTION

A. Breach of the EPC Contracts

59. Plaintiffs incorporate and reallege the preceding allegations as if fully set forth below.

60. Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts.

61. Defendants have breached their substantive performance obligations under Articles 2 and 3 of the EPC Contracts, as well as their Warranty obligations under Article 12 of the EPC Contracts, by at least the following acts and omissions:

a. Contractor's deficient bolt/washer/nut retention assembly design and its

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inadequate quality assurance/quality control during assembly,

b. Contractor's excessive cable length and increased bend radius of cabling resulting in significant partial discharge on the cable bundles, and

c. Contractor's deficient bolt assemblies, causing the bolts to become dislodged from the micarta panels and separation of the micarta panels themselves.

62. Defendants' acts and omissions constitute a breach of their obligations under the EPC Contracts, including, *inter alia*, the obligations to:

a. perform engineering, design, manufacture and fabrication "in accordance with the requirements of this Agreement" under Section 3.1A;

b. "perform the Work in accordance with GECP" under Section 3.1A, which includes "reasonable and prudent practices, methods, skill, care, techniques and standards" for the engineering, design and construction of LNG facilities;

c. "procure" and "assemble, erect and install all Equipment" under Section 3.2A;

d. "provide … inspection and quality control services" under Section 3.2B;

e. inspect the Work of their Subcontractors and "ensure that such work meets all the requirements of this Agreement" under Section 3.2D;

f. "perform, or cause to be performed, all design and engineering Work in accordance with this Agreement" under Section 3.2R and the equivalent language of Section 3.3A;

g. comply with their Warranty that the Equipment and each component thereof

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shall be "new, complete and of suitable grade for the intended function and use in accordance with this Agreement" under Section 12.1B(1);

h. comply with their Warranty that the Equipment and each component thereof shall be "in accordance with all of the requirements of this Agreement, including in accordance with GECP" under Section 12.1B(2); and

i. comply with their Warranty that the Equipment and each component thereof shall be "free from defects in design, material and workmanship" under Section 12.1B(3).

63. Plaintiffs have been damaged and are entitled to recover all amounts caused by Defendants' breaches of the EPC Contracts.

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

65. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim. Pursuant to Texas Civil Practice & Remedies Code § 38.001, Plaintiffs are entitled to recover its reasonable and necessary attorneys' fees.

VIII. REQUEST FOR RELIEF

66. Plaintiffs respectfully requests that Defendants be cited to appear and answer, and that Plaintiffs be granted judgment including the following relief:

a. all damages caused by Defendants' breaches of the EPC Contracts;

b. pre-judgment and post-judgment interest at the highest allowable rate;

c. costs and reasonable and necessary attorneys' fees; and

d. all other relief to which Plaintiffs are entitled.

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Respectfully Submitted,

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EXHIBIT C

Execution Version

FIXED PRICE SEPARATED TURNKEY AGREEMENT

for the

ENGINEERING, PROCUREMENT AND CONSTRUCTION

of the

FREEPORT TRAIN 2 LIQUEFACTION PROJECT

by and between

FLNG LIQUEFACTION 2, LLC

as Owner

and

ZACHRY INDUSTRIAL, INC. and CB&I INC.
as Contractor

Dated as of the 10th Day of December, 2013

TABLE OF CONTENTS

RECITALS 1

ARTICLE 1 DEFINITIONS 2

ARTICLE 2 RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS 20
2.1 Status of Contractor 20
2.2 Key Personnel, Organization Chart and Contractor Representative 20
2.3 Subcontractors and Sub-subcontractors 21
2.4 Subcontracts and Sub-subcontracts 22
2.5 Contractor Acknowledgements 24

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES 28
3.1 Scope of Work 28
3.2 Specific Obligations 29
3.3 Design and Engineering Work. 30
3.4 Spare Parts 33
3.5 Training Program in General 34
3.6 Environmental Regulations and Environmental Compliance 34
3.7 Contractor's Tools and Equipment 35
3.8 Employment of Personnel 35
3.9 Clean-up 36
3.10 Safety and Security 37
3.11 Emergencies 39
3.12 Approvals, Certificates, Permits and Licenses 39
3.13 Books, Records and Audits. 39
3.14 Tax Accounting 40
3.15 Temporary Utilities, Roads, Facilities and Storage 41
3.16 Subordination of Liens 41
3.17 Hazardous Materials 41
3.18 Quality Assurance 42
3.19 Reports and Meetings 43
3.20 Payment 44
3.21 Commercial Activities 44
3.22 Title to Materials Found 44
3.23 Survey Control Points and Layout 44
3.24 Cooperation with Others 45
3.25 Scheduled and Unscheduled Activities Involving Existing Facility and the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement 45
3.26 Responsibility for Property 46
3.27 Explosives 47
3.28 Nondiscrimination 47
3.29 Used or Salvaged Materials 47

3.30 Supervision of Owner's Operation Personnel 47
3.31 Use of Owner Equipment or Facilities 48
3.32 Compliance with Real Property Interests 49

ARTICLE 4 OWNER'S RESPONSIBILITIES 49
4.1 Payment 49
4.2 Permits 49
4.3 Access to the Site 49
4.4 Operation Personnel 49
4.5 Texas Sales and Use Taxes 50
4.6 Hazardous Materials 51
4.7 Legal Description and Survey 51
4.8 Owner Provided Items 51

ARTICLE 5 COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS 56
5.1 Commencement of Work 56
5.2 Limited Notice to Proceed/Notice to Proceed 56
5.3 Train 2 Project Schedule 61
5.4 CPM Schedule 61
5.5 Recovery and Recovery Schedule 64
5.6 Acceleration and Acceleration Schedule 66

ARTICLE 6 CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY 67
6.1 Change Orders Requested by Owner 67
6.2 Change Orders Requested by Contractor 69
6.3 Change Orders Requested by FLIQ1 Under the Train 1 EPC Agreement 71
6.4 Contract Price Adjustment; Contractor Documentation 71
6.5 Change Orders Act as Accord and Satisfaction 72
6.6 Timing Requirements for Notifications and Change Order Requests by Contractor 72
6.7 Adjustment Only Through Change Order. 74
6.8 Force Majeure 74
6.9 Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law 75
6.10 Delay 76
6.11 Contractor Obligation to Mitigate Delay 77
6.12 Separated Contract Price Adjustments in Change Orders 77
6.13 Change Orders Affecting Common Development Work or the Common Development Work Compensation 77
6.14 Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement 78
6.15 Adjustment to Schedule Bonus Date 79

ARTICLE 7 CONTRACT PRICE AND PAYMENTS TO CONTRACTOR 80
7.1 Contract Price 80
7.2 Contract Price Components 81

7.3 Interim Payments....82
7.4 Final Completion and Final Payment for Train 2-Specific Work and Common Development Work....84
7.5 Payments Not Acceptance of Work....85
7.6 Payments Withheld....85
7.7 Interest on Late Payments....86
7.8 Work Breakdown Structure....86
7.9 Payment Error....86
7.10 Currency....86
7.11 Conditions Precedent to Payment....87
7.12 Payments to Subcontractors....87
7.13 Retainage and Retention Letter of Credit....87
7.14 Payments by FLIQ CF....89

ARTICLE 8 TITLE AND RISK OF LOSS....89
8.1 Title....89
8.2 Risk of Loss....90

ARTICLE 9 INSURANCE AND LETTER OF CREDIT....92
9.1 Insurance....92
9.2 Irrevocable Standby Letter of Credit....93
9.3 Retention Letter of Credit....94
9.4 Financial Statements....95

ARTICLE 10 OWNERSHIP OF DOCUMENTATION....96
10.1 Ownership of Work Product....96
10.2 Return/Delivery of Certain Property....97
10.3 Contractor's License in Work Product....97
10.4 Owner Provided Documents....98

ARTICLE 11 COMPLETION MILESTONES....98
11.1 Notice and Requirements for RFSU and RLFC....98
11.2 Notice and Requirements for Substantial Completion....101
11.3 Owner Acceptance of RLFC and Substantial Completion....102
11.4 Minimum Acceptance Criteria as a Condition of Substantial Completion....102
11.5 Punchlist....106
11.6 Notice and Requirements for Final Completion....108
11.7 Partial Occupancy....108
11.8 Operations Activities....109
11.9 LNG Tankers Calling on the Facility....109
11.10 Long-Term Obligations....109

ARTICLE 12 WARRANTY AND CORRECTION OF WORK....109
12.1 Warranty....109
12.2 Correction of Work Prior to Substantial Completion of each Phase....111
12.3 Correction of Work After Substantial Completion of each Phase....112
12.4 Assignability of Warranties....113

12.5 Waiver of Implied Warranties 113

ARTICLE 13 GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES 113
13.1 Guarantee of Timely Completion 113
13.2 Delay Liquidated Damages 114
13.3 Schedule Bonus 114

ARTICLE 14 CONTRACTOR'S REPRESENTATIONS 115
14.1 Corporate Standing 115
14.2 No Violation of Law; Litigation 115
14.3 Licenses 115
14.4 No Breach 115
14.5 Corporate Action 115
14.6 Financial Solvency 115

ARTICLE 15 OWNER'S REPRESENTATIONS 116
15.1 Corporate Standing 116
15.2 No Violation of Law; Litigation 116
15.3 Licenses 116
15.4 No Breach 116
15.5 Corporate Action 116
15.6 Financing and Payment 116

ARTICLE 16 DEFAULT, TERMINATION AND SUSPENSION 117
16.1 Default by Contractor 117
16.2 Termination for Convenience by Owner 119
16.3 Suspension of Work 120
16.4 Suspension by Contractor 120
16.5 Termination by Contractor 121
16.6 Termination Due to Extended Force Majeure 121

ARTICLE 17 INDEMNITIES 121
17.1 General Indemnification 121
17.2 Injuries to Contractor's Employees and Damage to Contractor's Property 122
17.3 Injuries to Owner's Employees and Damage to Owner's Property 122
17.4 Owner's Patent and Copyright Indemnification 123
17.5 Contractor's Patent and Copyright Indemnification 123
17.6 Lien Indemnification 123
17.7 Legal Defense 124
17.8 Enforceability 125

ARTICLE 18 DISPUTE RESOLUTION 125
18.1 Negotiation 125
18.2 Mediation 126
18.3 Litigation 126
18.4 Continuation of Work During Dispute 127

ARTICLE 19 CONFIDENTIALITY 127
19.1 Contractor's Obligations 127
19.2 Owner's Obligations 127
19.3 Definitions 128
19.4 Exceptions 128
19.5 Equitable Relief 129
19.6 Term 129

ARTICLE 20 LIMITATION OF LIABILITY 129
20.1 Contractor Aggregate Liability 129
20.2 Damage to the Existing Facility, the Train 1 Expansion after Substantial Completion Under the Train 1 EPC Agreement and the Train 2 Expansion After Substantial Completion 130
20.3 Limitation on Contractor's Liability for Delay Liquidated Damages 130
20.4 Delay Liquidated Damages In General 131
20.5 Consequential Damages 131
20.6 Owner Separate Contracts 132
20.7 Continuing Rights and Obligations 132
20.8 Application of Liability Limitations 132

ARTICLE 21 MISCELLANEOUS PROVISIONS 133
21.1 Entire Agreement 133
21.2 Amendments 133
21.3 Joint Effort 133
21.4 Captions 133
21.5 Notice 133
21.6 Severability 134
21.7 Assignment 135
21.8 No Waiver 135
21.9 Governing Law 135
21.10 Successors and Assigns 135
21.11 Attachments and Schedules 135
21.12 Obligations 135
21.13 Further Assurances 135
21.14 Priority 136
21.15 Restrictions on Public Announcements 136
21.16 Parent Guarantee 136
21.17 Foreign Corrupt Practices Act 136
21.18 Language 137
21.19 Counterparts 137
21.20 Owner's Lender(s) 137
21.21 Joint and Several Liability 137
21.22 Coordination Between this Agreement and Train 1 EPC Agreement 137
21.23 Survival 139

LIST OF ATTACHMENTS AND SCHEDULES

ATTACHMENT A	Scope of Work and Design Basis
SCHEDULE A-1	Scope of Work
SCHEDULE A-2	Design Basis – Pretreatment Facility
SCHEDULE A-3	Design Basis – Liquefaction Facility
ATTACHMENT B	Contractor Deliverables
ATTACHMENT C	Payment Schedule and Work Breakdown Structure Form
SCHEDULE C-1	Payment Milestone Schedule
SCHEDULE C-2	Maximum Cumulative Payment Schedule
SCHEDULE C-3	Form of Work Breakdown Structure
ATTACHMENT D	Form of Change Order
SCHEDULE D-1	Change Order Form
SCHEDULE D-2	Unilateral Change Order Form
SCHEDULE D-3	Contractor's Change Order Request Form
SCHEDULE D-4	Pricing for Change Orders
ATTACHMENT E	Train 2 Project Schedule, Schedule Milestones and Delay Liquidated Damages
ATTACHMENT F	Key Personnel and Contractor's Organization
ATTACHMENT G	Approved Subcontractors and Sub-subcontractors
ATTACHMENT H	Notice to Proceed Forms
SCHEDULE H-1	Form of Limited Notice to Proceed
SCHEDULE H-2	Form of Notice to Proceed
SCHEDULE H-3	LNTP No. 1
ATTACHMENT I	Form of Contractor's Invoices
SCHEDULE I-1	Form of Contractor's Interim Invoice for Train 2-Specific

Work

SCHEDULE I-2 Form of Contractor's Interim Invoice for Common Development Work

SCHEDULE I-3 Form of Contractor's Final Invoice for Train 2-Specific Work

SCHEDULE I-4 Form of Contractor's Final Invoice for Common Development Work

ATTACHMENT J Health, Safety, Security and Environmental Management Plan

ATTACHMENT K Form of Lien and Claim Waivers

SCHEDULE K-1 Contractor's Conditional Waiver and Release on Progress Payment

SCHEDULE K-2 Contractor's Conditional Claim Waiver and Release on Progress Payment

SCHEDULE K-3 Subcontractor's Conditional Waiver and Release on Progress Payment

SCHEDULE K-4 Subcontractor's Conditional Claim Waiver and Release on Progress Payment

SCHEDULE K-5 Contractor's Conditional Waiver and Release on Final Payment

SCHEDULE K-6 Contractor's Conditional Claim Waiver and Release on Final Payment

SCHEDULE K-7 Subcontractor's Conditional Waiver and Release on Final Payment

SCHEDULE K-8 Subcontractor's Conditional Claim Waiver and Release on Final Payment

ATTACHMENT L Form of RFSU Certificate

ATTACHMENT M Form of Substantial Completion Certificate

ATTACHMENT N Form of Final Completion Certificate

ATTACHMENT O Insurance Requirements

ATTACHMENT P Contractor Permits

ATTACHMENT Q	Owner Permits
ATTACHMENT R	Form of Irrevocable, Standby Letter of Credit and Retention Letter of Credit
SCHEDULE R-1	Form of Irrevocable, Standby Letter of Credit
SCHEDULE R-2	Form of Retention Letter of Credit
ATTACHMENT S	Performance Tests
ATTACHMENT T	Minimum Acceptance Criteria and other Performance Requirements
ATTACHMENT U	Form of Parent Guarantee
ATTACHMENT V	Pre-Commissioning, Commissioning, Start-Up, Training and Turnover Program
ATTACHMENT W	Capital Spare Parts List
ATTACHMENT X	Reporting Requirements
ATTACHMENT Y	Site
SCHEDULE Y-1	Existing Facility Site and Expansion Facility Site on Quintana Island
SCHEDULE Y-2	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas on Quintana Island
SCHEDULE Y-3	Train 1 Expansion Site, Train 2 Expansion Site and Other Expansion Facility Site Areas at the Pretreatment Facility Location
ATTACHMENT Z	Owner-Provided Items
ATTACHMENT AA	Form of RLFC Certificate
ATTACHMENT BB	Subsurface Documents
ATTACHMENT CC	Interfaces and Tie-Ins with Existing Facility
ATTACHMENT DD	Adjustment for Provisional Sums
ATTACHMENT EE	Owner's Quality Management General Requirements

ATTACHMENT FF	Owner Provided List of Tax Exempt and Taxable Equipment
ATTACHMENT GG	Owner's Texas Direct Pay Exemption Certificate and Texas Sales and Use Tax Exemption Certificate
ATTACHMENT HH	Adjustment for Piles
ATTACHMENT II	Fill for Site
ATTACHMENT JJ	Form of Equipment Sharing Agreement

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 2 LIQUEFACTION PROJECT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 2 LIQUEFACTION PROJECT (this "***Agreement***"), dated as of the 10th Day of December, 2013 (the "***Effective Date***"), is entered into by FLNG Liquefaction 2, LLC, a Delaware limited liability company ("***Owner***"), and CB&I Inc., a Texas corporation, and Zachry Industrial, Inc., a Delaware corporation, with CB&I and Zachry hereinafter collectively referred to as "***Contractor***", and with each of Owner and Contractor sometimes referred to individually herein as a "***Party***" and collectively as the "***Parties***".

RECITALS

WHEREAS, Owner's affiliate, Freeport LNG Development, L.P. ("***FLNG Development***") owns and operates an existing LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas (as defined in greater detail in Section 1.1, the "***Existing Facility***"); and

WHEREAS, Owner intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that will modify, and be interconnected with, the Existing Facility (as more fully described herein, the "***Train 2 Expansion***"). The engineering, procurement, construction, pre-commissioning, commissioning and testing of the Train 2 Expansion is hereby referred to as the "***Train 2 Project***"; and

WHEREAS, another affiliate of Owner, FLNG Liquefaction, LLC ("***FLIQ1***"), intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 2 Expansion (except for the Common Development Work), and will modify, and be interconnected with, the Existing Facility and the Train 2 Expansion as well as share the Common Systems with the Train 2 Expansion and share the Existing Facility Modifications with both the Existing Facility and the Train 2 Expansion (as defined in greater detail in Section 1.1, the "***Train 1 Expansion***"); and

WHEREAS, FLIQ1 intends to develop the Train 1 Expansion pursuant to a fixed price (separated for tax purposes), turnkey engineering, procurement and construction agreement entered into by FLIQ1 and Contractor, dated December 10, 2013 (hereinafter, the "***Train 1 EPC Agreement***");

WHEREAS, CB&I and Zachry, 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 2 Project on a fixed price, turnkey basis (which fixed price is separated for tax purposes).

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

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

"***Abandonment of the Train 2 Project***" means, prior to the acceptance by Owner of the Substantial Completion Certificate, Contractor's express refusal to perform substantially all home office activities and field construction operations in a manner that objectively manifests the intent by Contractor of not completing the Work under this Agreement. For the avoidance of doubt, Contractor shall not be alleged to have implicitly, expressly, or constructively abandoned the Train 2 Project or the Work as a result of Owner terminating Contractor pursuant to Section 16.1 for a Default, other than a Default pursuant to Section 16.1A(iii) for an "Abandonment of the Train 2 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, FLIQ1 Holdings, LLC, FLIQ2 Holdings, LLC, FLIQ3 Holdings, LLC, FLNG Liquefaction 3, LLC and FLNG Development as well as any Affiliate of FLNG Development; *provided further, however*, with respect to Owner, and for purposes of clarity, ConocoPhillips Company shall not be an "Affiliate" of Owner. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

"***Aggregate Provisional Sum***" has the meaning set forth in Section 7.1.

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards

and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality (including the Electric Reliability Council of Texas) 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 or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions of the Train 2 Project, as required under Attachment B.

"***Baseline CPM Schedule***" has the meaning set forth in Section 5.4A.

"***Books and Records***" has the meaning set forth in Section 3.13A.

"***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 United States of America.

"***Btu***" means a British thermal unit.

"***CAD***" has the meaning set forth in Section 3.3E.

"***Capital Spare Parts***" shall mean those spare parts listed in Attachment W for use after Substantial Completion which are to be included in the Work and the Contract Price as further set forth in Section 3.4B.

"***CB&I***" has the meaning set forth in Section 21.21.

"***CB&I Guarantor***" means Chicago Bridge & Iron Company N.V.

"***CenterPoint***" means CenterPoint Energy, or any successor entity thereto.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of

the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1A.

"***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 inventory, revenue, income, profits/losses or cost of finance or withholding Tax) that occurs and takes effect after the Effective Date.

"***Common Contract Price Component***" has the meaning set forth in Section 7.2A.

"***Common Development Work***" means all Work performed under this Agreement to design, engineer, procure, construct, pre-commission, commission and test the Common Systems (including the Expansion Facility Dock and Existing Facility Modifications). The Common Development Work shall include all direct and indirect labor and materials provided to develop the Common Systems, including, permanent materials, bulks and commodities, Subcontractor and Sub-subcontractor supplies and services, construction equipment, supplies, small tools, scaffolding, spare parts, pre-commissioning, commissioning and start-up activities, home office services, project management services, temporary facilities, training, general site services and supplies, temporary utilities, security, and Subcontractor and Sub-subcontractor support, all to the extent necessary for the development of the Common Systems as part of the Expansion Facility. For purposes of clarity, the scope of the Common Development Work under this Agreement shall be the same scope of work defined as "Common Development Work" under the Train 1 EPC Agreement, and Contractor shall be obligated to fully complete such Common Development Work as set forth in this Agreement. While the intent of Owner, Contractor and FLIQ1 is that the Common Development Work under both this Agreement and the Train 1 EPC Agreement is an identical and fully overlapping scope of work, in the event of a conflict or discrepancy between this Agreement and the Train 1 EPC Agreement with respect to such Common Development Work, Owner and FLIQ1 shall jointly resolve such conflict or discrepancy and Owner will direct Contractor accordingly under this Agreement and FLIQ1 will direct Contractor accordingly under the Train 1 EPC Agreement.

"***Common Development Work Compensation***" has the meaning set forth in Section 7.2A.

"***Common Systems***" means those portions of the Work which will be utilized by both the Train 1 Expansion and Train 2 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Expansion Facility Dock and Existing Facility Modifications. The applicable Common Systems will be designed, procured and constructed such that both the Train 1 Expansion and Train 2 Expansion may be operated simultaneously or individually at the design conditions set forth in this Agreement (with respect to the Train 2 Expansion) and the design conditions set forth in the Train 1 EPC Agreement (with respect to the Train 1 Expansion). The Common Systems are listed in Sections 4.1.1 and 4.2.1 of Schedule A-1.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Contract Price***" has the meaning set forth in Section 7.1. For purposes of clarity, the Contract Price shall equal the sum of the Train 2-Specific Contract Price Component and the Common Contract Price Component.

"***Contract Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, its limited or general partners, its members and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, employees, representatives and invitees of each Person specified in clause (i) above. A "Contractor Indemnified Party" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work, except for any limitations specified in such notice.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

"***Contractor's Intellectual Property***" has the meaning set forth in Section 10.1B.

"***Corrective Work***" has the meaning set forth in Section 12.3.

"***CPM Schedule***" means the Baseline CPM Schedule (as it may be updated from time to time in accordance with this Agreement) or Monthly Updated CPM Schedules, as the context requires.

"***Cure Period***" has the meaning set forth in Section 16.1A.1.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1A.

"***Defect***" or "***Defective***" has the meaning set forth in Section 12.1A.

"***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; *provided that*, (i) the Defect Correction Period for that portion of the Common Systems that achieves substantial completion under the Train 1 EPC Agreement shall extend until eighteen (18) months from the date of substantial completion established under the Train 1 EPC Agreement (as such period may be extended pursuant to the Train 1 EPC Agreement) and (ii) notwithstanding the foregoing, with respect to the Existing Facility Modifications, the Defect Correction Period shall be the period commencing upon

Handover of the applicable Existing Facility Modifications and ending eighteen (18) months thereafter, as may be extended in accordance with Section 12.3B.

"***Defective MCHE***" means, for purposes of Section 11.4B only, an MCHE that fails to achieve its performance guarantees as fully defined in the equipment purchase agreement for the MCHE between APCI and Contractor. For all other purposes within the Agreement, a Defective MCHE shall mean an MCHE that has a Defect as defined in Section 12.1A.

"***Delay Liquidated Damages***" shall mean any or all of the (a) RLFC Delay Liquidated Damages, (b) Substantial Completion Delay Liquidated Damages, (c) Record As-Built Delivery Requirement Delay Liquidated Damages or (d) MCHE Replacement Delay Liquidated Damages, as the context requires.

"***Design Basis***" means the basis of design and technical limits and parameters of the Expansion Facility as set forth in Schedules A-2 and A-3.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" has the meaning set forth in Section 18.1.

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***Equipment***" means all equipment and materials required for incorporation into the Train 2 Expansion.

"***Equipment Sharing Agreement***" means that certain Equipment Sharing Agreement to be executed by Owner, FLIQ CF, Contractor, FLIQ1 and other signatories relating to the sharing of items of equipment among Owner, FLIQ CF, FLIQ1 and other signatories, which such Equipment Sharing Agreement shall be substantially in the form attached hereto as Attachment JJ.

"***Existing Facility***" means Owner's Affiliates' (including FLNG Development and its Affiliates) existing (i) LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas, (ii) Stratton Ridge natural gas metering station, (iii) forty-two inch (42") diameter natural gas pipeline connecting the Stratton Ridge natural gas metering station to the terminal on Quintana Island, and (iv) underground natural gas storage cavern located near Stratton Ridge and its related natural gas storage infrastructure and compression facilities.

"***Existing Facility Modifications***" has the meaning set forth in Section 11.2A.

"***Existing Facility Site***" means those areas where the Existing Facility is located as shown

in greater detail in Schedule Y-1.

"***Expansion Facility***" means both the Train 1 Expansion and Train 2 Expansion, including all Common Systems.

"***Expansion Facility Dock***" means the LNG loading and unloading dock to be constructed as part of the Expansion Facility, including all marine piling, concrete structures, mooring dolphins, and topside Equipment, as further described in Section 4.12.5 of Schedule A-1.

"***Expansion Facility Dock Price***" means Thirty Four Million One Hundred Seventy Eight Thousand Five Hundred Seventy-Eight U.S. Dollars ($34,178,578), as such value may be adjusted from time to time by Change Orders executed by the Parties in accordance with this Agreement.

"***Expansion Facility Site***" means those areas comprised of the Train 1 Expansion Site, Train 2 Expansion Site and other Expansion Facility Site areas as shown in greater detail in Attachment Y.

"***Facility***" means both the Expansion Facility and the Existing Facility.

"***FEED Agreement***" means the Front End Engineering Design Services Agreement between Freeport LNG Expansion, L.P. and Contractor, dated January 30, 2012.

"***FERC***" means the Federal Energy Regulatory Commission.

"***FERC Order***" means the Order Granting Authorization under Section 3 of the Natural Gas Act, issued by FERC to Owner in connection with the Expansion Facility, as may be amended or modified.

"***Final Completion***" means that all Work and all other obligations under the Agreement (except for those obligations that survive the termination or expiration of this Agreement, including obligations for Warranties, correction of Defective Work and those covered, without limitation, by Section 11.10), are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of RLFC and Substantial Completion; (ii) the completion of all Punchlist items; (iii) the successful achievement of the MCHE Power Performance Guarantee or, if the MCHE Power Performance Guarantee was not achieved but the Total Gas Horsepower (as determined in accordance with Attachments S and T) was equal to or less than 105% of the MCHE Power Performance Guarantee, the MCHE Power Performance Guarantee Liquidated Damages in accordance with Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (iv) the successful achievement of the Gross Power Output Performance Guarantee and Gross Heat Rate Performance Guarantee (as described in Attachments S and T), or in the case that either such Performance Guarantee has not been achieved, the Gross Power Output Performance Liquidated Damages and Gross Heat Rate Performance Liquidated Damages, as applicable, due and owing as set forth in Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (v) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers in the forms of Schedules K-5 and K-6; (vi) delivery by

Contractor to Owner of all remaining documentation required to be delivered under this Agreement, including Owner's Confidential Information, test reports and the documentation required under Attachment B and Attachment EE; (vii) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractor's personnel, supplies, waste, materials, equipment (except Equipment), rubbish, Hazardous Materials, and temporary facilities; (viii) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers from all Major Subcontractors in the forms in Schedules K-7 and K-8; (ix) if requested by Owner, fully executed Final Lien and Claim Waivers from Major Sub-subcontractors in a forms substantially similar to the forms in Schedule K-7 and K-8; and (x) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 11.6, which Owner has accepted by signing such certificate.

"***Final Completion Certificate***" has the meaning set forth in Section 11.6.

"***Final Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.4, which shall be in the form of Attachment K, Schedules K-5, K-6, K-7 and K-8.

"***First RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Fixed Sum Prices***" has the meaning set forth in Attachment DD.

"***FLIQ CF***" means FLIQ Common Facilities, LLC.

"***FLIQ1***" has the meaning set forth in the Recitals.

"***FLNG Development***" has the meaning set forth in the Recitals.

"***Force Majeure***" means catastrophic storms (including ice storms) or flooding, lightning, tornadoes, hurricanes, named tropical storms, earthquakes and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, was not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship, (ii) changes in market conditions, (iii) late delivery or failure of materials, equipment (including Equipment) or supplies unless due to a Force Majeure event, (iv) strikes, or other similar labor actions of Contractor or its Subcontractors or Sub-subcontractors, except Subcontractors (or their associated Sub-subcontractors) providing the main cryogenic heat exchanger, refrigeration compressor packages, major inline cryogenic valves or non-U.S. liquefaction air coolers, *provided that* with respect to the foregoing excepted Subcontractors and Sub-subcontractors, Contractor's relief for such

strikes or other similar labor actions shall be limited to an extension to the Guaranteed Substantial Completion Date and the Required Final Completion Date pursuant to Section 6.8A.1 (and does not include adjustments to the Contract Price pursuant to Section 6.8A.2(b)), (v) unavailability of laborers, Subcontractors or Sub-subcontractors, or (vi) climatic conditions (including rain, snow, wind, temperature and other weather conditions), tides, and seasons, regardless of the magnitude, severity, duration or frequency of such climatic conditions, tides or seasons, *provided that* such climatic conditions, tides and seasons do not include catastrophic storms (including ice storms) or floods, lightning, tornadoes, hurricanes, named tropical storms or earthquakes meeting the requirements of a Force Majeure, or (vii) nonperformance or delay by Contractor or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay is otherwise caused by a Force Majeure.

"***Fourth RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards employed by the liquefied natural gas engineering and construction industries with respect to: (i) the engineering, procurement, construction, pre-commissioning, commissioning, testing and start-up of natural gas treatment and liquefaction facilities in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A. For clarification, GECP does not necessarily require compliance with the World Bank's noise guidelines, but Contractor shall nevertheless comply with noise levels and guidelines required by Permits, Applicable Law and Applicable Codes and Standards.

"***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.

"***Gross Negligence or Willful Misconduct***" shall have the meanings as determined under the governing law of this Agreement as set forth in Section 21.9.

"***Guaranteed Record As-Built Delivery Date***" has the meaning set forth in Section 3.3F.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3A.

"***Guarantor***" means CB&I Guarantor and Zachry Guarantor.

"***Handover***" has the meaning set forth in Section 11.2A. For purposes of clarity, the phrase "***Handed Over***" shall have the same meaning as Handover.

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***IFC***" has the meaning set forth in Section 5.4A.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Intellectual Property Rights***" means patents, utility models, registered designs and models, trademarks, trade secrets, service marks, copyrights, applications for any of the foregoing and rights to apply for any of the foregoing, proprietary information and know-how, whether patentable or not, and any similar right.

"***Interim Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.3C, which shall be in the form of Attachment K, Schedules K-1, K-2, K-3 and K-4.

"***Investment Grade***" has the meaning set forth in Section 9.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.3 for a progress payment and pursuant to Section 7.4 for final payment, which invoice shall be in the form of Schedule I-1 or I-2, as applicable for progress payments and Schedule I-3 or I-4, as applicable, for final payment.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2A.

"***Labor and Skills Price***" has the meaning set forth in Section 7.1C.

"***Lender***" means any entity or entities providing temporary or permanent debt financing for the Expansion Facility.

"***Letter of Credit***" has the meaning set forth in Section 9.2.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 3.3B.

"***LNG***" means liquefied Natural Gas.

"***LNG Evacuation Requirement***" has the meaning set forth in Section 4.8D.

"***LNG Production Rate***" means the average hourly LNG rundown rate over the 72-hour LNG Production Rate Performance Test measured at the outlet of the LNG liquefaction unit (at the final flow measuring device downstream of the MCHE prior to entering the common rundown header). The LNG Production Rate shall be established in a continuous 72-hour LNG Production Rate Performance Test without any process trips.

"***LNG Production Rate MAC***" means the Train 2 Expansion is capable of achieving an average (continuous, without any process trips) hourly LNG rundown rate equivalent to 566.8 metric tonnes per hour, when processing natural gas at the condition and of the composition defined in the design case (average gas) at an ambient Site temperature of 71 degrees Fahrenheit during the 72-hour LNG Production Rate Performance Test.

"***LNG Production Rate Performance Test***" has the meaning set forth in Attachment S.

"***LNG Tanker***" means any ocean-going vessel used by Owner, a customer of the Facility or their designee for the transportation of LNG.

"***LNTP No. 1***" has the meaning set forth in Section 5.2A.

"***LNTP No. 2***" has the meaning set forth in Section 5.2A.2.

"***LNTP No. 3***" has the meaning set forth in Section 5.2A.3.

"***Major Subcontract***" means any Subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Subcontractor for Work listed in Section 3 of Attachment G.

"***Major Subcontractor***" means the Subcontractors listed as such in Attachment G and, in addition, any Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means any Sub-subcontract either (i) having an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, (ii) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Ten Million U.S. Dollars (U.S.$10,000,000) for Work performed under this Agreement and work performed under the Train 2 EPC Agreement, or (iii) entered into with a Sub-subcontractor for Work listed in Section 3 of Attachment G.

"***Major Sub-subcontractor***" means the Sub-subcontractors listed as such in Attachment G and, in addition, any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Maximum Cumulative Payment Schedule***" has the meaning set forth in Section 7.3F.

"***MCHE***" means the main cryogenic heat exchanger for the Train 2 Expansion.

"***MCHE Power Performance Guarantee***" has the meaning set forth in Attachment T.

"***MCHE Power Performance Guarantee Liquidated Damages***" has the meaning set forth in Attachment T.

"***MCHE Replacement Delay Liquidated Damages***" has the meaning set forth in Section 11.4B.2.

"***MCHE Replacement Scenario***" has the meaning set forth in Section 11.4B.

"***MCHE Replacement Scenario Verification Notice***" has the meaning set forth in Section 11.4B.1.

"***Minimum Acceptance Criteria***" or "***MAC***" means the LNG Production Rate MAC, the Ship Loading Rate MAC for the Existing Facility's LNG loading dock and the Ship Loading Rate MAC for the Expansion Facility Dock, all as further specified in Attachment T.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 11.4A.

"***Minimum Acceptance Criteria Testing Conditions***" are the Performance Test conditions set forth in Attachment S.

"***MMBtu***" means one million (1,000,000) Btus.

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring, or an action taken, once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.19A.4.

"***Monthly Updated CPM Schedule***" has the meaning set forth in Section 5.4B.

"***Notice to Proceed***" or "***NTP***" has the meaning set forth in Section 3.3B.

"***NTP Exchange Rate***" has the meaning set forth in Section 7.10.

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) Owner, its parent, its limited or general partners, its members, Lenders, ConocoPhillips Company, any other Persons with an ownership interest in the Expansion Facility or the Existing Facility and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Mark Mallett as the Owner Representative. Notification of a change in Owner Representative shall be provided in advance, in writing, to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.16.

"***Party***" or "***Parties***" means Owner and/or Contractor and their successors and permitted assigns.

"***Payment Milestone***" means a designated portion of the Work as shown the Payment Milestone Schedule.

"***Payment Milestone Schedule***" means the schedule set forth in Schedule C-1, which sets out the payments to be paid based on completion of the Payment Milestones.

"***Performance Guarantee***" means the MCHE Power Performance Guarantee, Gross Power Output Performance Guarantee and the Gross Heat Rate Performance Guarantee, as further set forth in Attachment T.

"***Performance Liquidated Damages***" shall mean the Gross Power Output Performance Liquidated Damages, the Gross Heat Rate Performance Liquidated Damages and the MCHE Power Performance Liquidated Damages, as further set forth in Attachment T.

"***Performance Tests***" means those tests performed to determine whether the Minimum Acceptance Criteria and Performance Guarantees have been achieved for the Train 2 Expansion, which tests shall be set forth in Attachment S and, to the extent not specified therein, as developed in accordance with Section 11.2.

"***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.

"***Person***" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.

"***Piles***" has the meaning set forth in Section 2.5B.2(i).

"***Provisional Substantial Completion***" has the meaning set forth in Section 11.4B.6.

"***Provisional Sum***" has the meaning set forth in Attachment DD.

"***Provisional Sum Scope Items***" has the meaning set forth in Attachment DD.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Facility, as more fully described in Section 11.5 of this Agreement.

"***Qualified Force Majeure Event***" has the meaning set forth in Section 6.8A.2(b).

"***Quality Management System***" means the system, including quality plans and procedures, used by Contractor to direct and control its organization with regard to quality, the requirements of which are set forth in Section 3.18 and Attachment EE.

"***Ready for Startup***" or "***RFSU***" means that all of the following have occurred with respect to the applicable system or subsystem of the Equipment for the Train 2 Project: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment (including all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) for such applicable system or subsystem of the Equipment to ensure that all such Equipment was fabricated, assembled, erected and installed and is capable of being properly operated, all within the requirements and specifications contained in this Agreement (and without damage to the Work, the Facility or any other property and without injury to any Person), all as set forth in greater detail in Attachment A and the RFSU checklists agreed by Owner and Contractor in accordance with Section 11.1A; (ii) Contractor and Owner have agreed upon an initial Punchlist of items as set forth in Section 11.5A and those Punchlist items necessary for achieving RFSU have been successfully completed by Contractor (including all A and B classified Punchlist items); (iii) Contractor has delivered to Owner an RFSU Certificate for the applicable system or subsystem in the form of Attachment L; (iv) Contractor has provided Owner with all documentation for RFSU, including the System Compilation Manuals, as required under Attachment B; (v) the requirements related to RFSU set forth in Attachment V (including the prestart-up safety review and walk-down between Owner and Contractor) have been achieved and the Owner approvals related thereto have been given; and (vi) the quality requirements of Attachment EE related to RFSU have been successfully completed and related documentation provided to Owner.

"***RFSU of the Train 2 Expansion***" shall mean that RFSU has been achieved for all systems and subsystems of the Train 2 Expansion.

"***Ready To Load First Cargo***" or "***RLFC***" means that all of the following have occurred with respect to the Train 2 Expansion: (i) the successful achievement of Ready For Start Up of all systems and subsystems of all Equipment; (ii) Contractor has completed all

procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment and all systems and subsystems of all Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up, to ensure that the Work (including all Common Systems) and each component thereof was correctly fabricated, assembled, erected and installed, has been correctly integrated into the Existing Facility and the Train 1 Expansion, and is capable of being operated within the requirements contained in this Agreement and without damage to the Work, the Facility, any other property or the environment and without injury to any Person, as set forth in greater detail in Attachment A; (iii) Contractor has successfully completed the process of drying out and purging all systems and subsystems; (iv) the Train 2 Expansion meets the additional requirements for RLFC set forth in Attachment A and Attachment V; (v) the Train 2 Expansion has liquefied natural gas into at least 150,000 m^3 of LNG meeting all specifications and requirements of this Agreement (other than the Minimum Acceptance Criteria and Performance Guarantees) and successfully transferred and stored such LNG into the Existing Facility's LNG storage tank; (vi) all LNG loading and unloading lines (and Equipment and systems related thereto) necessary for transfer of LNG from the Existing Facility's LNG storage tank to the Existing Facility's dock and the Expansion Facility Dock, have been cooled down and are ready for transfer of LNG to an LNG Tanker; (vii) the Expansion Facility Dock is ready and capable, in all respects, to safely dock an LNG Tanker and load LNG onto such LNG Tanker; (viii) Contractor has completed all Punchlist items necessary for achievement of RLFC pursuant to Section 11.5B and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5B; and (ix) Contractor has delivered to Owner an RLFC Certificate in the form of Attachment AA and Owner has accepted such certificate by signing such certificate.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Delivery Requirement***" has the meaning set forth in Section 3.3F.

"***Record As-Built Delivery Requirement Delay Liquidated Damages***" has the meaning set forth in Section 13.2B.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications of the Train 2 Project showing the "as-built" conditions of the Train 2 Expansion, as required under Attachment B.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means that certain information provided by Owner, which is expressly identified in Attachment Z as being Rely Upon Information, that Contractor shall be entitled to rely upon in the performance of the Work under this Agreement.

"***Replacement Timeline***" has the meaning set forth in Section 11.4B.2.

"***Required Final Completion Date***" has the meaning set forth in Section 5.3B.

"***Retainage***" has the meaning set forth in Section 7.13A.

"***Retention Letter of Credit***" has the meaning set forth in Section 9.3.

"***RFSU Certificate***" has the meaning set forth in Section 11.1A.

"***RLFC Certificate***" is the Contractor certification for achievement of RLFC in the form set forth in Attachment AA.

"***RLFC Delay Liquidated Damages***" has the meaning set forth in Section 11.1D.1.

"***Schedule Adjustment Items***" has the meaning set forth in Attachment DD.

"***Schedule Bonus Date***" means 1,645 Days following Contractor's receipt of LNTP No. 3. The Schedule Bonus Date shall only be adjusted by Change Order as provided in this Agreement, including as allowed by Attachment DD.

"***Schedule Milestones***" means those milestones for completion of certain portions of the Work as further set forth in Attachment E.

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Attachment A.

"***Second RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Senior Supervisory Personnel***" means the following positions of Contractor's project management team: (i) Project Executive, (ii) Project Manager, (iii) Engineering Manager, (iv) Site Construction Director, (v) Deputy Site Construction Director, (vi) Commissioning & Start-up Manager, (vii) Safety Manager, (viii) Procurement Manager, (ix) Project Controls Manager and (x) QA/QC Manager.

"***Ship Loading Performance Test***" has the meaning set forth in Attachment S.

"***Ship Loading Rate MAC***" has the meaning set forth in Attachment S.

"***Site***" means the Expansion Facility Site and the Existing Facility Site together, as further described in Attachment Y.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct contract with Contractor to manufacture or supply Equipment which is a portion of the Work, to lease equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or materials.

"***Substantial Completion***" means that all of the following have occurred with respect to the Train 2 Expansion: (i) Ready For Start Up has been achieved for all systems and subsystems of Equipment for the Train 2 Expansion; (ii) RLFC has been achieved and the RLFC Certificate has been delivered by Contractor to Owner and Owner has accepted such certificate by signing such certificate; (iii) all Minimum Acceptance Criteria have been achieved (including the Minimum Acceptance Criteria for the Expansion Facility Dock); (iv) Contractor has completed all items on the Punchlist that are required to achieve Substantial Completion and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5C; (v) any RLFC Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (vi) the Work has been completed (including training, manuals and the delivery of all documentation required for operation), except for Work on the Punchlist; (vii) Contractor has delivered to Owner the Substantial Completion Certificate in the form of Attachment M and as required under Section 11.2 and Owner has accepted such certificate by signing such certificate; (viii) the Train 2 Expansion has been integrated into the Existing Facility and Train 1 Expansion and is available for full commercial operation, including loading of LNG Tankers from the Expansion Facility Dock or Existing Facility LNG loading dock, in accordance with the requirements of this Agreement; (ix) Contractor has obtained all Permits for the Train 2 Expansion required by Section 3.12; (x) Contractor has delivered to Owner fully executed Interim Lien and Claim Waivers in the forms of Schedules K-1 and K-2, fully executed Interim Lien and Claim Waivers from all Major Subcontractors in the forms of Schedules K-3 and K-4 and, if requested by Owner, fully executed Interim Lien and Claim Waivers from all Major Sub-subcontractors substantially in the forms of Schedules K-3 and K-4, covering all Work up to the date of Substantial Completion; (xi) Contractor has assigned to or provided Owner with all Warranties related to the Work to the extent Contractor is obligated to do so pursuant to this Agreement; (xii) Contractor has delivered all documentation to Owner which it is required under the Agreement to provide at or prior to Substantial Completion pursuant to Attachment B; and (xiii) the quality requirements of Attachment EE related to Substantial Completion have been successfully completed and related documentation provided to Owner.

"***Substantial Completion Certificate***" is the Contractor certification for achievement of Substantial Completion in the form set forth in Attachment M.

"***Substantial Completion Delay Liquidated Damages***" has the meaning set forth in Section 13.2A.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Equipment which comprises a portion of the Work, to lease equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to

perform a portion of the Work or to otherwise furnish labor, materials or equipment (including Equipment).

"***Tax Exempt Equipment***" has the meaning set forth in Section 4.5A.2.

"***Tax Exempt Equipment Price***" has the meaning set forth in Section 7.1A.

"***Taxable Equipment***" has the meaning set forth in Section 7.1B.

"***Taxable Equipment Price***" has the meaning set forth in Section 7.1B.

"***Taxes***" means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes (excluding any Texas state and applicable local sales and use taxes on Tax Exempt Equipment and Taxable Equipment), gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium**,** franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

"***Third Party Proprietary Work Product***" has the meaning set forth in Section 10.1B.

"***Third RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Train 1 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 1 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under the Train 1 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems (including the Expansion Facility Dock and the Existing Facility Modifications) and other systems, all as further set forth in the Train 1 EPC Agreement. For purposes of clarity, the Train 1 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 1 Expansion Site***" means those areas where the Train 1 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 1-Specific Work***" means work performed under the Train 1 EPC Agreement by or on behalf of Contractor that is not also part of the Work performed under this Agreement.

"***Train 2 Expansion***" means the facilities, and all appurtenances related thereto, to be designed, procured and constructed under this Agreement in order to meet the Minimum Acceptance Criteria and the Performance Guarantees and includes a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Common Systems (including the Expansion Facility Dock and Existing Facility Modifications) and

all other systems, all as further set forth in this Agreement (particularly Attachment A). For purposes of clarity, the Train 2 Expansion does not include any part of the Existing Facility (other than the Existing Facility Modifications).

"***Train 2 Expansion Site***" means those areas where the Train 2 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 2 Project***" has the meaning set forth in the Recitals.

"***Train 2 Project Schedule***" means the schedule of dates in which Contractor is required to achieve certain stages of completion of the Train 2 Expansion, including the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Guaranteed Record As-Built Delivery Date and the Schedule Milestones, as more particularly described in Sections 3.3F and 5.3 and Attachment E.

"***Train 2-Specific Contract Price Component***" has the meaning set forth in Section 7.2B.

"***Train 2-Specific Work***" means that portion of the Work that directly benefits, or is necessary for, the Train 2 Expansion only and does not provide any benefit, and is not otherwise necessary, for the Train 1 Expansion. For clarity, the Train 2-Specific Work is all Work performed under this Agreement that is not Common Development Work.

"***Unforeseen Subsurface Condition***" means any unforeseen (i) caverns or seismic faults, (ii) material subsurface obstructions, whether manmade or natural, or (iii) subsurface fossils, antiquities or other archeological finds, which, in the case of any of the above, were encountered by Contractor in the performance of the Work and (a) were not identified in any soils information or any other documents provided to Contractor by Owner, (b) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections, investigations or work performed by Contractor or any of its Subcontractors or Sub-subcontractors prior to the Effective Date and (c) with respect to (i) and (ii) only, are materially different from those that are reasonably expected to be encountered due to the nature of the Site.

"***Updated Contract Price and Train 2 Project Schedule Proposal***" has the meaning set forth in Section 5.2C.3.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Value of Foreign Currency***" has the meaning set forth in Section 7.10B.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 12.1A.

"***Weekly Progress Report***" has the meaning set forth in Section 3.19A.3.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, procurement, engineering, design, fabrication, erection, installation, manufacture,

delivery, transportation, storage, construction, workmanship, labor, pre-commissioning, commissioning, inspection, training, Performance Tests, other tests, start-up and any other services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1A and any Corrective Work. Without limiting the foregoing, the Work is comprised of the Train 2-Specific Work and the Common Development Work.

"***Work Breakdown Structure***" has the meaning set forth in Section 7.8.

"***Work Product***" has the meaning set forth in Section 10.1A.

"***30 Day Look-ahead Schedule***" has the meaning set forth in Section 5.4D.

"***Zachry***" has the meaning set forth in Section 21.21.

"***Zachry Guarantor***" means Zachry Holdings, Inc.

1.2 The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement.

ARTICLE 2
RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 **Status of Contractor**. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative**.

A. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization

who will be assigned to the Work. For clarity, the Parties agree and acknowledge that the Key Personnel shall include the Senior Supervisory Personnel in addition to those personnel identified in Attachment F. Owner and Contractor acknowledge and agree the continuity of Key Personnel on this Train 2 Project is a material requirement of this Agreement and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work. Key Personnel shall be devoted full-time to the Work for the applicable period of time specified in Attachment F (*provided that*, Owner acknowledges that a Key Person performing functions related to the Train 2 Project and Common Development Work may also be performing work under a similar role under the Train 1 EPC Agreement), and Key Personnel shall not be removed or reassigned without Owner's prior written approval. All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and the resumes of professional education and experience for a minimum of two (2) candidates of suitable qualifications and experience. Should Owner approve of the replacement of a Key Person, Contractor shall allow for an overlap of two (2) weeks during which both the Key Person to be replaced and the Owner-approved new Key Person shall work together full time. The additional cost of any replacement of such Key Personnel and overlap time shall be entirely at Contractor's expense. Owner has the right, but not the obligation, to require Contractor to remove or cause to be removed a Key Person who is not, in Owner's reasonable judgment, using GECP in the performance of the portion of the Work assigned to such Key Person. Unless the Parties otherwise agree in writing, the Persons identified as Key Persons under this Agreement that are dedicated to the management of Common Development Work shall also be Key Persons under the Train 1 EPC Agreement dedicated to the same Common Development Work.

B. ***Contractor Representative***. Contractor designates Chet Lloyd as the Contractor Representative. The Contractor Representative is a Key Person. The Contractor Representative under this Agreement and the Train 1 EPC Agreement shall be the same Person unless otherwise agreed by Owner in writing.

2.3 **Subcontractors and Sub-subcontractors**. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. Except as otherwise set forth in this Agreement, the provisions of Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the provisions of this Agreement. The provisions of any Subcontract or Sub-subcontract shall not relieve Contractor of any obligations to perform the Work or of its responsibility for each Subcontractor and Sub-subcontractor. NO SUBCONTRACTOR OR SUB-SUBCONTRACTOR IS INTENDED TO BE OR SHALL BE DEEMED A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly used by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor in the performance of the Work. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner or Lender to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel

that are performing Work at the Site are to be instructed by Contractor in the terms and requirements of Owner-approved safety and environmental protection policies and procedures for Work at the Site and shall be expected to comply with such policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Contract Price or Train 2 Project Schedule as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall (i) create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or (ii) obligate Owner to pay or cause the payment of any amounts to any Subcontractor or Sub-subcontractor. For purposes of sales and use taxes for the State of Texas, all Subcontracts and Sub-subcontracts will be separated contracts pursuant to Tex. Tax Code § 151.056(b) and 34 Tex. Admin. Code Rule § 3.291(a)(13). In addition, all Subcontract and Sub-subcontract documentation (including scope of work, cost and schedule-related information) shall be capable of being segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

2.4 **Subcontracts and Sub-subcontracts**.

A. ***Approved List***. Part I of Attachment G sets forth a list of Subcontractors and Sub-subcontractors that Contractor and Owner have agreed are approved Subcontractors and Sub-subcontractors for the performance of that portion of the Work specified in Part I of Attachment G. As further set forth in Attachment G, a Subcontractor or Sub-subcontractor that is listed in Part I shall be utilized for the applicable portion of the Work unless Owner otherwise agrees in writing. Part II of Attachment G sets forth portions of the Work whose Subcontractors and Sub-subcontractors may not otherwise meet the value thresholds to be Major Subcontractors or Major Sub-subcontractors but that the Parties nevertheless agree that such Subcontractors and Sub-subcontractors are Major Subcontractors and Major Sub-subcontractors for purposes of performing such Work scopes. Approval by Owner of any Subcontractors or Sub-subcontractors does not relieve Contractor of any responsibilities under this Agreement.

B. ***Additional Proposed Major Subcontractors and Major Sub-subcontractors***. In the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor not listed on Attachment G that would qualify as a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids (with pricing redacted) of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fourteen (14) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor not listed on Attachment G. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor not listed on Attachment G for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major

Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4B expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fourteen (14) Days shall be deemed to be a rejection of such Major Subcontractor or Major Sub-subcontractor.

C. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Sections 2.4A or 2.4B, Contractor shall, prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing.

D. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts (which price may be redacted from such copies) within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts (which price may be redacted from such copies). Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement or approval of or acquiescence in a breach hereunder.

E. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors used in the performance of the Work, Contractor shall:

1. Include in each Major Subcontract and each Major Sub-subcontract a provision that each such Major Subcontract and Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2. Use reasonable commercial efforts to include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract; *provided, however*, as a minimum (and without relieving Contractor of its responsibility for each Major Subcontractor and Major Sub-subcontractor), Contractor must include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to substantially comply with and perform for the benefit of Owner the following requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are

applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract:

(i) For all Major Subcontractors and Major Sub-subcontractors: Article 10 and Article 19; Sections 2.5C, 3.3, 3.8, 3.13, 3.16, 3.18, 8.1, 16.2, 16.3, 17.1B, 21.15, 21.17 and 21.18; for Interim Lien and Claim Waivers in Section 7.3D and Final Lien and Claim Waivers in Section 7.4 (except Interim and Final Lien and Claim Waivers are not required from Sub-subcontractors who are Equipment suppliers or manufacturers that do not perform Work at the Site); and in substance the same as Section 2.3, including that there is no contractual relationship between Owner and any Major Subcontractor or Major Sub-subcontractor and that Owner has no obligation to pay or cause to pay the payment to any Major Subcontractor or Major Sub-subcontractor.

(ii) For all Major Subcontractors and Major Sub-subcontractors performing Work at the Site: Article 17 (except for Section 17.1B) and Sections 3.6, 3.7, 3.10, 3.17, 3.24, 3.25, 3.27, 9.1, and Attachment O, in addition to the requirements and obligations set forth in Section 2.4E.2(i).

F. ***Owner's Right to Terminate***. Owner shall be entitled to require Contractor to immediately terminate any Subcontract or Sub-subcontract if any Subcontractor or Sub-subcontractor (as applicable) fails to comply in any material respect with the policies and procedures set forth in Attachment J, persists in any conduct which is prejudicial to safety, health or the protection of the environment, or fails to perform the Work in accordance with the safety and health rules and standards of Applicable Law. Contractor agrees that it shall have no right, and hereby waives any such right, to claim any increase to the Contract Price or an adjustment to the Train 2 Project Schedule arising out of or due to any such termination.

2.5 **Contractor Acknowledgements**.

A. ***The Agreement***. Prior to the execution of this Agreement, Contractor performed engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work and Design Basis listed in Attachment A, which was performed pursuant to the FEED Agreement. Owner has relied upon Contractor's expertise in developing and providing such information. Except with respect to Rely Upon Information identified in Attachment Z, Contractor hereby warrants and represents that such information and the attached Scope of Work and the Design Basis in Attachment A are accurate, adequate and complete for Contractor to engineer, procure, construct, pre-commission, commission, start-up and test a fully operational natural gas treatment, liquefaction, storage and terminal facility for the Contract Price, within the required times set forth in the Train 2 Project Schedule, and in accordance with all requirements of this Agreement, including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees, and

that with respect to any information (if any) not so developed or provided by Contractor which is contained in or referenced in Attachment A, Contractor has examined all such information and has determined that it is accurate, adequate and complete. Accordingly, with the exception of Rely Upon Information set forth in Attachment Z, Contractor hereby agrees that it shall have no right to claim or seek an increase in the Contract Price or an adjustment to the Train 2 Project Schedule with respect to any incomplete, inaccurate or inadequate information or requirements that may be contained or referenced in Attachment A, and hereby waives and releases Owner from and against such claims. Owner makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any such information that is contained or referenced in Attachment A.

B. ***Conditions of the Site***.

1. In addition to Section 2.5A, Contractor further agrees and acknowledges that it has made all investigations and inspections that it deems necessary to perform the Work in accordance with the Train 2 Project Schedule, has conducted a review of all Site leases and easements that have been provided to Contractor by Owner, and is familiar with the climate, terrain and other difficulties that it may encounter in performing the Work in accordance with the Train 2 Project Schedule. Contractor has the experience, resources, qualifications and capabilities to perform the Work in accordance with the Train 2 Project Schedule. Except as provided for in Sections 2.5B.2, 2.5B.3 and 6.8A, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Contract Price or the Train 2 Project Schedule in respect of, any failure to timely perform the Work in accordance with the Train 2 Project Schedule as a result of any conditions at the Site or at any other location where the Work is performed, including: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions; (ii) climatic conditions, tides, and seasons (excluding Force Majeure events); (iii) availability of laborers, Subcontractors, Sub-subcontractors, equipment or any other items or supplies; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of equipment under the control of or provided by Contractor or its Subcontractors or Sub-subcontractors.

2. Contractor assumes all risks related to, and waives any right to claim an adjustment for, any and all subsurface conditions of whatever nature or condition, except as expressly provided in this Section 2.5B.2:

(i) *Piles.* The Contract Price and Train 2 Project Schedule are based on 20,192 total piles, having the composition, size and length shown in Section 1 of Attachment HH, supporting all portions of the Train 2 Expansion ("***Piles***"). In accordance with Section 2 of Attachment HH, Contractor shall conduct pile tests on an area by area basis to confirm the number, size, length and type of the Piles in accordance with Section 2 of Attachment HH. Based on the pile test report for an area, if the length or number of Piles in such area is different than that stated in this Section 2.5B.2(i) and Section 1 of Attachment HH, then a Change Order shall be

executed adjusting the Contract Price and Train 2 Project Schedule as follows:

(a) If the Pile test report in an area shows that a change in length, size, type or number of Piles is necessary to achieve the load bearing capacity noted in Section 1 of Attachment HH, the Contract Price shall be respectively increased or decreased by Change Order as provided in Section 3 of Attachment HH. This adjustment process shall be performed on an area-by-area basis as further set forth in Attachment HH;

(b) After conducting all of the Pile tests for the Site, if the total number of Piles for the Train 2 Expansion is either (i) ten percent (10%) or more greater than 20,192 Piles or (ii) ten percent (10%) or more less than 20,192 Piles, as a result of the cumulative findings of the Pile test reports described in clause (a) above, the Train 2 Project Schedule shall be evaluated and extended if and to the extent permitted under Section 6.9 (in the case of clause (i)) or decreased (in the case of clause (ii)); and

(c) Except as provided in clauses (a) and (b) above, Contractor is not entitled to any other adjustments to the Contract Price, Train 2 Project Schedule or any other Changed Criteria arising out of or relating to the Piles.

(ii) *Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.*

(a) *Identified Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* Prior to the Effective Date, Contractor received from Owner or developed under the FEED Agreement documentation showing the location of any subsurface utilities, subsurface obstructions, caverns, seismic faults and subsurface archeological finds, as described in more detail in Attachment BB. After the Effective Date but prior to performance of construction of any Work near any such identified subsurface utilities, obstructions, caverns, seismic faults or archeological finds, Contractor shall, exercising GECP, verify all locations of such identified subsurface utilities, obstructions, caverns, seismic faults and archeological finds, and Contractor shall be entitled to a Change Order adjusting the Contract Price and the Train 2 Project Schedule for any locations of Unforeseen Subsurface Conditions that are materially different than the information described in such documents and adversely affect Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, *provided that*, Contractor complies

with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9. After the commencement of construction, Contractor waives all risks and waives any right to claim an adjustment in the Contract Price or Train 2 Project Schedule with respect to any additional costs or delay incurred by Contractor or any Subcontractor or Sub-subcontractor during the construction of the Train 2 Expansion in connection with any location of any subsurface utility, obstruction or archeological find inaccurately shown on such documents.

(b) *Unknown Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* If Contractor encounters an Unforeseen Subsurface Condition that adversely affects Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, Contractor shall be entitled to a Change Order adjusting the Contract Price and Train 2 Project Schedule, *provided that* Contractor complies with the notice and Change Order request requirements set forth in Section 6.6, Contractor uses all reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.9.

3. In accordance with this Agreement, Contractor is required to raise and/or stabilize the Site in accordance with Schedule A-1 using appropriate and adequate materials meeting the requirements of this Agreement and GECP. The Contract Price is based on the fill requirements specified in Section 1 of Attachment II. No later than forty-five (45) Days after completion of soil stabilization and Site raising by Contractor, Contractor shall notify Owner in writing whether any adjustment to the fill material requirements specified in Section 1 of Attachment II are necessary based upon the process set forth in Attachment II and the actual amount of fill materials and soil stabilization materials utilized to raise and stabilize the Site. Such notification shall include a proposed Change Order and all information supporting such proposed Change Order, including the soil test reports of the stabilized soil and as-built cut and fill drawings for the Site. Any adjustments in the Contract Price shall be determined in accordance with Section 2 of Attachment II. Except for any adjustment in the Contract Price as provided in Attachment II, Contractor is not entitled to any other adjustments to the Contract Price, Train 2 Project Schedule or any other Changed Criteria arising out of or relating to any fill requirements or soil stabilization requirements for the Train 2 Project.

C. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards and represents that it can perform the Work at the Contract Price and within the Train 2 Project Schedule in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, (i) Contractor shall be entitled to a Change Order for Changes in Law (including Applicable Codes and Standards incorporated into Applicable Law) to the extent allowed under Section 6.2A.8, and (ii) the Parties shall follow the procedure in Section 2.5C.1 with respect to changes that occur after the Effective Date in Applicable Codes and Standards that are not incorporated into Applicable Law. Except for any Changes in Law for which Contractor is entitled to a Change Order under Section 6.2A.8, Contractor hereby waives any right to make any claim for adjustment of the Contract Price or the Train 2 Project Schedule in relation to any Changes in Law or change to any Applicable Codes and Standards.

1. If a change occurs in any Applicable Code and Standard after the Effective Date and such Applicable Code and Standard is not incorporated into any Applicable Law, Contractor shall give Owner written notice of such change in accordance with the requirements of Section 6.6, which such notice shall include a reasonably detailed description of the impact of the change (if any) on the Train 2 Project or any Changed Criteria. Within ten (10) Days after Owner's receipt of such notice, the Parties shall meet to discuss the implications (if any) of such change in Applicable Code and Standard and shall agree upon an appropriate course of action.

ARTICLE 3
CONTRACTOR'S RESPONSIBILITIES

3.1 **Scope of Work**.

A. ***Generally***. Subject to Section 3.1B, the Work shall be performed on a turnkey basis and shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 2 Expansion, all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, workmanship, inspection, manufacture, fabrication, installation, design, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 2 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees. Contractor shall be required to integrate and use Owner's operations and maintenance personnel (which are provided by Owner pursuant to Section 4.4) in Contractor's pre-commissioning, commissioning, testing and start-up efforts. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement,

with the explicit understanding that the Expansion Facility will operate as an LNG liquefaction, storage and export terminal facility meeting all requirements and specifications of this Agreement, and that the Existing Facility will continue to operate as an LNG receiving, storage and regasification facility. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required and necessary to complete the Train 2 Expansion in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

B. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits that Owner has agreed to provide under Section 4.2; (ii) those requirements set forth under Sections 4.3, 4.4, 4.5 and 4.8; (iii) legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point pursuant to Section 4.7; and (iv) LNG Tankers for start-up, commissioning and Performance Tests in accordance with Sections 11.1B and 11.1C.

3.2 **Specific Obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

A. procure, supply, transport, handle, properly store, assemble, erect and install all Equipment;

B. provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

C. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4;

D. perform shop and other inspections of the work of Subcontractors and Sub-subcontractors to ensure that such work meets all of the requirements of this Agreement;

E. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

F. pay all Contractor's Taxes incurred in connection with the Work in a timely fashion;

G. ensure that the Work is performed in accordance with the Train 2 Project Schedule;

H. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Train 2 Expansion, while supervising operations and maintenance personnel provided by Owner;

I. obtain all Permits required per Section 3.12;

J. provide reasonable, prompt assistance, information and documentation required or requested by Owner to enable Owner to obtain or modify the Permits listed in Attachment Q;

K. provide training and certification for Owner's operating and maintenance personnel per Section 3.5;

L. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

M. cooperate with and respond promptly to inquiries from Owner;

N. provide information and any other assistance reasonably requested by Owner with respect to Owner's contracting and interfacing with CenterPoint, including providing, on a timely basis, all information needed by CenterPoint regarding electrical demands of the Expansion Facility and specifying to CenterPoint all requirements of Contractor as well as review of any information provided by CenterPoint (including interface conditions) and attendance at meetings between Owner and CenterPoint;

O. be responsible for connecting the Train 2 Expansion (including designing, engineering and constructing the interconnections) to the permanent utilities to the extent set forth in Attachment A;

P. interface and cooperate with Owner's other contractors (which activities shall be coordinated by Owner), and provide necessary Drawings, Specifications and other information for interconnections to the Train 2 Expansion, including interconnections for the natural gas feed pipeline for the natural gas pretreatment facility, the natural gas liquids pipeline and the natural gas vapor return pipeline;

Q. supply all initial permanent (*i.e.*, non-startup) fills; and

R. perform, or cause to be performed, all design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 **Design and Engineering Work**.

A. ***General***. Contractor shall, as part of the Work, perform, or cause to be performed, all design and engineering Work in accordance with this Agreement and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees.

B. ***Drawings and Specifications***. Upon receipt of a limited notice to proceed ("***Limited Notice to Proceed***" or "***LNTP***") or the full notice to proceed ("***Notice to Proceed***" or "***NTP***") issued in accordance with Section 5.2, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall conform and comply with the requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

C. ***Review Process***.

1. *Over-the-Shoulder Review*. During the development of the Drawings and Specifications, Contractor shall provide Owner with the opportunity to perform "over-the-shoulder" reviews of the design and engineering in progress. Such reviews may be conducted at Contractor's office located in Houston, Texas, at any of its Subcontractor's or Sub-subcontractor's offices, or remotely by electronic internet access. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents determined by Owner.

2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment B.

3. *Review Periods*. Owner shall have up to ten (10) Business Days from its receipt of Drawings and Specifications submitted in accordance with Section 3.3C.2 to issue written comments, proposed changes and/or written approvals or disapprovals of the submission of such Drawings and Specifications to Contractor.

4. *No Owner Response*. If Owner does not issue any comments, proposed changes or written approvals or disapprovals within such time periods, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

5. *Disapproval by Owner*. In the event that Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in this Section 3.3C; *provided that* Contractor shall not be entitled to any extensions of time to the Train 2 Project Schedule, an adjustment to the Contract Price or any adjustment to any other Changed Criteria; *provided further, however*, to the extent Owner's disapproval of the Drawings or

Specifications is due to one or more material changes by Owner to any such Drawings or Specifications, and not the result of such Drawings or Specifications non-compliance with the requirements of this Agreement, Contractor shall be entitled to a Change Order to the extent such Owner-required change adversely affects the Train 2 Project Schedule and/or the Contract Price and Contractor complies with and meets the requirements under Article 6.

6. *Approval or Non-Response by Owner*. Upon Owner's written approval of the Drawings and Specifications, or in the event that Owner does not issue any comments, proposed changes or written approval or disapprovals of such Drawings and Specifications pursuant to Section 3.3C.4, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work; *provided that* Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control. Due to the limited time for Owner's review of Drawings and Specifications, Contractor's or its Subcontractors' or Sub-subcontractors' expertise in the Work and Owner's reliance on Contractor to prepare accurate and complete Drawings and Specifications, Contractor recognizes and agrees that Owner is not required or expected to make detailed reviews of Drawings and Specifications, but instead Owner's review of Drawings and Specifications may be of only a general, cursory nature. Accordingly, any review or approval given by Owner under this Agreement, or any non-response under Section 3.3C.4, with respect to any Drawings or Specifications shall not in any way be, or deemed to be, an approval of any Work, Drawings or Specifications not meeting the requirements of this Agreement, as Contractor has the sole responsibility for performing the Work in accordance with this Agreement.

D. ***Design Licenses***. Contractor shall perform, or cause to be performed, all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

E. ***CAD Drawings***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings and Specifications prepared by Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable AutoCAD.dwg (Version 10) or Intergraph 3D model in native format. Contractor shall use best efforts to also provide Drawings, including Record As-Built Drawings and Specifications, in other formats requested by Owner.

F. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep a redlined, marked, up-to-date set of As-Built Drawings and Specifications on the Site as required under Attachment B. Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment B, which shall include delivery of final as-built drawing files in fully operable and editable AutoCAD.dwg (Version 10) format or other format as agreed by Owner for Record As-Built Drawings (the "***Record As-Built Delivery Requirement***"). The Record As-Built Delivery Requirement shall include Record As-Built Drawings and Specifications for the entire Train 2 Expansion (including all Common Systems and Existing Facility Modifications). The Record As-Built Delivery Requirement shall be achieved by Contractor no later than ninety (90) Days after Substantial Completion of the Train 2 Expansion (the "***Guaranteed Record As-Built Delivery Date***").

G. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment B within and in accordance with the requirements and timing set forth in Attachment B.

3.4 **Spare Parts**.

A. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Train 2 Expansion to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving RLFC for the Train 2 Expansion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Contract Price, including the cost to procure such spare parts and the actual purchase price of such spare parts.

B. ***Capital Spare Parts***. The cost associated with all Work related to procuring the Capital Spare Parts identified in Attachment W (including the purchase price for such Capital Spare Parts) is included within the Contract Price. The Capital Spare Parts shall be delivered to the Site as a condition of Substantial Completion. For purposes of clarity, Capital Spare Parts may be utilized by Contractor prior to achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use.

C. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion (but only to the extent not taken into consideration by the Capital Spare Parts listed in Attachment W), Contractor shall deliver to Owner for Owner's written approval a detailed list of the manufacturer and Contractor-recommended spare parts for each applicable item of Equipment necessary for operating such Equipment (including components and systems of such Equipment) for two (2) years. Such list shall be provided to Owner for each item of Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract or Sub-subcontract for such Equipment. Owner shall have ten (10) Business Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract or Sub-subcontract. The cost associated with all Work related to the two (2) years' operating

spare parts is included in the Contract Price, except for the actual purchase price and delivery costs of such spare parts. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2A.6 to increase the Contract Price for the actual purchase price and delivery costs of such requested operating spare parts. For purposes of clarity, operating spare parts may be utilized by Contractor after achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use (including replacement of the used operating spare part at Contractor's expense).

3.5 **Training Program in General**. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion (but not to exceed the number of Persons listed in Attachment V) shall be given training designed and administered by Contractor at its expense, which shall be based on the program requirements contained in Attachment V and shall cover the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter reasonably required by Owner. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Expansion Facility during commissioning, testing and start-up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's or Sub-subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment V. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate training of Owner personnel hired in the future. Owner agrees that within forty-eight (48) hours after receipt of written notice from Contractor, it shall remove any employee or agent of Owner in the training program who, in Contractor's reasonable opinion, is unsafe, incompetent, careless, incapable of being trained, creates an unsafe or hostile work environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL HAVE NO LIABILITY AND OWNER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM OWNER TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY CONTRACTOR TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Owner shall replace any such employee at its sole cost and expense.

3.6 **Environmental Regulations and Environmental Compliance**. Without limitation of Section 3.1, Contractor is responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment and Applicable Law and in compliance with the policies and procedures set forth

in Attachment J. Contractor shall, at its sole cost and expense, dispose of all non-hazardous wastes and Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site (including any laydown areas), or generate from Hazardous Materials brought onto the Site during performance of the Work, which shall be disposed at off-Site disposal facilities approved by Owner and permitted to receive such wastes and Hazardous Materials. Contractor shall report to Owner, as soon as reasonably possible after having knowledge thereof and in no event later than one (1) Day after such occurrence, any violation of the foregoing. In addition to Section 17.1C, Contractor shall, at its sole cost and expense, remediate the release of any Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site, or generate from Hazardous Materials brought onto the Site, in violation of this Section 3.6.

3.7 **Contractor's Tools and Equipment**. Contractor shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such tools, machinery, structures, scaffolding or equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against Owner, Lender and any Owner Affiliates.

3.8 **Employment of Personnel**.

A. Contractor shall not employ, and shall require that any Subcontractor or Sub-subcontractor not employ, in connection with its performance under this Agreement anyone not skilled or qualified to perform the work assigned to such Person. Contractor agrees to promptly remove or reassign (or to require any Subcontractor or Sub-subcontractor to remove or reassign) from its services in connection with the Work any Person performing Work at the Site who does not meet the foregoing requirements. In addition, Contractor agrees that within forty-eight (48) hours after receipt of written notice from Owner, it shall remove from the Work any employee or agent of Contractor or of Contractor's Subcontractors or Sub-subcontractors who, in Owner's reasonable opinion, is unsafe, incompetent, careless, creates an unsafe or hostile work environment, persists in any conduct which is prejudicial to safety, health or the protection of the environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS

FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Contractor shall replace any such employee at its sole cost and expense.

B. Contractor is responsible for maintaining labor relations in such manner that there is harmony among the employees of Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site. Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site shall conduct their labor relations in accordance with the recognized prevailing local area practices. Contractor shall inform Owner 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. Contractor further agrees to inform Owner, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations. In the event of any labor dispute which threatens to adversely affect the progress of the Work, Owner reserves the right to restrict additional hiring of workers and to suspend or terminate the Work as set forth in Sections 16.3 and 16.2, respectively.

C. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature (unless prohibited by Applicable Law), knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of Owner is determined to be a potential weapon; (ii) alcoholic beverages of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) any animal; (v) illegal or Owner-prohibited drugs of any nature; (vi) any drugs (whether prescription or non-prescription) which impair physical or mental faculties; or (vii) any prescription drugs without a valid prescription.

In connection with the enforcement of this Section 3.8C, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contactor shall provide Owner with copies of such drug screening tests (subject to any restrictions imposed by Applicable Law). For Contractor, Subcontractor, and Sub-subcontractor employees and agents working in D.O.T-regulated functions, the drug screening policies for such employees and agents shall meet the D.O.T. approved drug and alcohol program requirements. Further, for Contractor, Subcontractor and Sub-subcontractor employees and agents performing "covered functions" (as defined by 49 CFR Part 199), the drug screening policies for such employees and agents shall be compliant with 49 CFR Part 199. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8C, and shall promptly remove from the Work any employee or agent of Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8C. The provisions of Section 3.8A with regard to liability of any of the Owner Indemnified Parties and Contractor's release, indemnification, defense and hold harmless obligations shall apply to the removal of any such Person under this Section 3.8C.

3.9 **Clean-up**. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its

Subcontractors or Sub-subcontractors. Without limitation of the foregoing or limiting Contractor's obligations, Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice. As soon as practicable after the completion of all Punchlist items, Contractor shall remove, at its own cost, all of its equipment, materials and other items not constituting (or intended to constitute) part of the Facility and remove all waste material and rubbish from the Site and restore the Site in accordance with all Permits and this Agreement. In the event of Contractor's failure to comply with any of the foregoing, Owner, having given Contractor five (5) Days prior notice, may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole option) all documented, direct costs associated with such removal and/or restoration, including costs associated with permitting, transportation and disposal at an authorized location.

3.10 **Safety and Security**. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval thirty (30) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Train 2 Expansion, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner after Work has commenced at the Site. Contractor further agrees to provide or cause to be provided necessary training and safety equipment to its employees, Subcontractors and Sub-subcontractors to ensure their compliance with the foregoing safety and health rules and standards and enforce the use of such training and equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law or by Owner and shall furnish Owner a Monthly summary of hours worked, injuries and labor hours lost due to injuries. Should Owner at any time observe Contractor, or any of its Subcontractors or Sub-subcontractors, performing the Work in an unsafe manner, or in a manner that may, if continued, become unsafe, then Owner shall have the right (but not the obligation) to require Contractor to stop the Work until such time as the manner of performing the Work has been rendered safe to the satisfaction of Owner; *provided, however*, that at no time shall Contractor be entitled to an adjustment of the Contract Price or Train 2 Project Schedule based on such work stoppage. Contractor shall be responsible for the security, fencing, guarding and lighting of the Train 2 Expansion and the Train 2 Expansion Site (except for those portions of the Train 2 Expansion Site falling within the security perimeter of the Existing Facility or the security perimeter of the Train 1 Expansion upon FLIQ1 (itself or through an Affiliate) taking over and maintaining site security for the Train 1 Expansion pursuant to Section 3.10 of the Train 1 EPC Agreement) until the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 2 Expansion. Upon the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 2 Expansion, the Train 2 Expansion

Site shall be incorporated into the security perimeter of the Existing Facility and Train 1 Expansion maintained by Owner (itself or through its Affiliates) and thereafter access to, and Work therein, will be subject to Owner's (or its Affiliates') site security requirements and other obligations under this Agreement with respect to performing Work in the Existing Facility Site and Train 1 Expansion Site as further set forth in Attachment V and Section 3.10B below; *provided that*, Contractor shall be able to continue to utilize its permit-to-work system and safety requirements meeting the requirements of this Agreement until Substantial Completion of the Train 2 Expansion. Nothing in this Section 3.10 shall affect Contractor's status as an independent contractor.

A. All Work performed hereunder shall comply with the minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of facilities contained in Title 49, Code of Federal Regulations (C.F.R.), Parts 192 (to the extent applicable) and 193 and in Title 33, C.F.R. Part 127. Contractor shall comply with requirements of the Operator Qualification Program that are outlined in Sub-Part H of 49 C.F.R. Part 193 and Sub-Part G of C.F.R. Part 195, where applicable. The term "pipeline facilities" shall include new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas, including LNG, or treatment of gas during the course of transportation. The term "transportation of gas" shall include the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

B. Any Work performed on the Existing Facility Site or the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) shall be conducted in accordance with the safety and security rules and procedures for the Existing Facility Site's and the Train 1 Expansion Site, as applicable. Each Contractor, Subcontractor or Sub-subcontractor personnel or representative needing access to the Existing Facility Site and the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) shall also have valid Transportation Worker Identification Credentials (TWIC card). In addition, each such personnel or representative shall have a valid TWIC card when, and to the extent, all or portions of the Train 2 Expansion Site become regulated by the Transportation Security Administration, which, in any event, shall be no later than when such portion of the Train 2 Expansion Site is incorporated into the security perimeter of the Existing Facility Site and the Train 1 Expansion Site pursuant to Section 3.10. Contractor acknowledges that it has fully investigated the access requirements and procedures for the Existing Facility Site and the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), as well as its site safety and security rules and procedures, and has taken such requirements, rules and procedures into account in planning the Work to be performed in accordance with the Train 2 Project Schedule. As such, Contractor shall not be entitled to a Change Order to adjust the Contract Price or Train 2 Project Schedule as a result of its personnel's (or that of its Subcontractors or Sub-subcontractors) compliance with such access, safety and security requirements, rules and procedures.

3.11 **Emergencies**. In the event of any emergency endangering life or property in any way relating to the Work, the Facility or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be under no obligation to, take reasonable action as required to address such emergency. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability. Contractor shall reimburse Owner for the performance of any work or furnishing of any equipment or other items in connection with any emergency in an amount equal to the reasonable costs incurred by Owner in such performance of work or furnishing of equipment or other items.

3.12 **Approvals, Certificates, Permits and Licenses**. Contractor shall obtain the Permits listed in Attachment P as well as (i) those Permits for the Train 2 Project that are required to be maintained in Contractor's (or its Subcontractor's or Sub-subcontractor's) name and (ii) non-project specific Permits necessary for Contractor to do business as a contractor in the State of Texas performing work of the nature contemplated herein. If requested by Owner, Contractor shall provide to Owner within five (5) Days after such request copies of all applications made for any such Permits and all material correspondence received or sent in respect of such applications. Contractor shall provide Owner with copies of such Permits as soon as they are obtained. Contractor shall provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained by Owner in Attachment Q.

3.13 **Books, Records and Audits**.

A. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with generally accepted accounting principles applicable in the United States 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. To the extent practicable, Contractor shall maintain such Books and Records in a manner that would allow them to be segregated into Books and Records relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work; *provided that*, notwithstanding the foregoing, Books and Records relating to all Work performed under any Change Order shall be segregated by Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

B. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records with respect to (i) any Drawings, Specifications or other technical documents required under this Agreement to be prepared, delivered or maintained by Contractor or any of its Subcontractors; (ii) any documents relating to safety, security, quality or Permits relating to this Agreement; (iii) any amounts billed

under unilateral Change Orders, or under cost reimbursable or unit price Change Orders; and (iv) any Provisional Sum Scope Items and any Provisional Sum amounts as well as the amounts making up the Fixed Sum Prices and the scopes of Work related thereto; *provided*, *however*, that such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with the internal composition of any compensation that is fixed in amount hereunder (including the composition of any markups, unit rates or fixed percentages or multipliers specified in this Agreement). When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records during normal business hours, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Contractor shall bear, at its own cost and expense, all costs incurred by it in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions substantially similar to this Section 3.13 in all Major Subcontracts. The restrictions in this Section 3.13B to the audit rights of Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law, in discovery in any arbitration or litigation arising out of Article 18 or in any litigation or arbitration against Guarantor.

C. Contractor shall not, and shall provide that its Subcontractors, Sub-subcontractors and agents or employees of any of them shall not, without Owner's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee, officer or consultant of Owner or its Affiliates, (ii) favor employees, officers or consultants of same with gifts or entertainment of any significant cost or value, or (iii) enter into any business arrangements with employees, officers or consultants of same.

3.14 **Tax Accounting**. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and Contractor's prices to Owner for any Equipment installed on or ordered for the Train 2 Expansion and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of Owner's tax returns or other tax documentation or the determination of Equipment that constitutes Tax Exempt Equipment listed in Attachment FF.

A. Contractor acknowledges that Owner is pursuing ad valorem tax abatements through the Texas Commission on Environmental Quality, and upon request Contractor shall provide documentation required or requested by the Texas Commission on Environmental Quality in order for Owner to perfect such abatement related to the cost of Equipment, including Equipment cost, cost of fabrication and design specifications, installation labor costs and overhead and other indirect costs. Documentation may consist of asset name or equipment reference number, a description of the asset, invoice copies showing Subcontractor name, invoice number, delivery date, and purchase amount. If reasonably requested by Owner, Contractor agrees to offer similar assistance to Owner toward any other federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF.

B. In the event that Contractor fails to provide the documentation described in Sections 3.14 and 3.14A, Contractor will be responsible to Owner for any resulting reduction in the tax benefit amount that Owner would otherwise be entitled to receive under the relevant federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF. Contractor shall be liable for and shall pay to Owner the amount of such reduction to the extent Owner was otherwise ready and capable of fulfilling all of Owner's compliance obligations and requirements with the applicable taxing entity in a timely fashion.

3.15 **Temporary Utilities, Roads, Facilities and Storage**. Contractor shall provide and pay for all utilities (*e.g.*, electricity (except as provided by Owner pursuant to Section 4.8B), water, communication, cable, telephone, waste and sewer), including all connections and substations, necessary for the performance of the Work, including installation, Permit and usage costs. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. Contractor shall provide Owner with office space in accordance with the requirements set forth in Attachment A at the time of Contractor's mobilization at the Site to accommodate Owner's Site representatives and support staff. Contractor shall provide Owner with all office space (as required by Attachment A), construction trailers, utilities, security, telephones, furnishings, and other temporary facilities required for their oversight of the Work, as set forth in more detail in Attachment A. All Equipment and other items comprising part of the Work stored at a location other than on the Site shall be segregated from other goods, and shall be clearly marked as "Property of FLIQ Common Facilities, LLC."

3.16 **Subordination of Liens**. In consideration of ten and no/100 U.S. Dollars (U.S.$10) incorporated into the Contract Price and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor, Contractor hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender or any lender of Owner's Affiliates, whether such lien in favor of such Persons is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender or any lender of Owner's Affiliates, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner's property and the Site are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 **Hazardous Materials**. Contractor shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Contractor may bring onto the Expansion Facility Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and the requirements specified in Attachment J, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials; *provided further, however*, if Contractor needs to bring any Hazardous Materials onto the Existing Facility Site or the Train 1 Expansion Site (after

Owner, through itself or its Affiliate, takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) for the performance of the Work, Contractor shall receive Owner's prior written approval (such approval not to be unreasonably withheld) before bringing such Hazardous Materials onto the Existing Facility Site or the Train 1 Expansion facility Site, as applicable, and Contractor shall comply with Applicable Law, Applicable Codes and Standards, the requirements specified in Attachment J, and any safety or security rules or procedures for the Existing Facility Site or the Train 1 Expansion Facility regarding such Hazardous Materials, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials. If Contractor or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Site, and Contractor or any Subcontractor or Sub-subcontractor knows or reasonably suspects that such material is Hazardous Material, Contractor and its Subcontractors and Sub-subcontractors shall immediately stop Work in the affected area and notify Owner. If under such circumstances Contractor or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify Owner, Contractor shall be responsible and liable to Owner in accordance with Section 17.1C for all damages, costs, losses and expenses to the extent relating to such failure.

3.18 **Quality Assurance**.

A. No later than sixty (60) Days after the date Owner issues NTP, Contractor shall submit to Owner for its review and written approval, an Expansion Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's Quality Management System and Subcontractor source inspection plan as required by Attachment EE. No later than ninety (90) Days after the date Owner issues NTP, Contractor shall submit to Owner for its written approval, detailed construction inspection and test plans and supporting construction procedures as required by Attachment EE. Prior to the commencement of the Work, detailed quality assurance and quality control procedures and plans applicable to the Work shall be issued to Owner in accordance with Attachment EE. Owner's review and approval of Contractor's quality plan, Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this Agreement. As part of the quality plan, the Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans, Contractor agrees that it shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including the Lender independent engineer's) review a copy of all such inspections.

B. Before proceeding with the Work, Contractor shall furnish satisfactory evidence as to the kind, quality, and quantity of all Equipment. Without prior written approval by Owner which specifically waives the requirements of this Agreement, Contractor shall not use any Equipment other than as specified in this Agreement. If Contractor wishes to modify the requirements contained herein, then it shall make written application to Owner for Owner's approval, in Owner's sole discretion, prior to performing any such Work. Such application shall (i) identify the requirements being modified, (ii) certify that the quality of the proposed substitute is equal to or better than that currently specified, and (iii) certify that the substitute is suited to the same use and

capable of performing the same function as that specified. If the preceding requirements are not followed, then any substitution shall constitute a Contractor Default. All Equipment shall be fabricated, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions of the applicable Subcontractor or Sub-subcontractor.

3.19 **Reports and Meetings**.

A. ***Reports***. Contractor shall provide Owner with an electronic copy of progress reports and such other information as reasonably requested by Owner, including the following:

1. minutes for all status and other Train 2 Expansion-related meetings within five (5) Business Days following such meeting;

2. safety or environmental incident reports within three (3) Business Days after the occurrence of any such incident (including "near miss" incidents where no individual was injured or property was damaged) relating to the Work, except for any safety or environmental incident involving a significant non-scheduled event such as LNG or natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; *provided, however,* notification shall be provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work;

3. weekly (or such duration as otherwise agreed by Owner in writing) progress reports for the Work ("***Weekly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X, which shall be provided one (1) Day prior to the weekly progress meeting and shall cover all activities up to the end of the previous week; and

4. Monthly progress reports for the Work ("***Monthly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X. Contractor shall provide the Monthly Progress Report no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall arrange for the electronic distribution of the Monthly Progress Report as Owner may reasonably request.

The Parties acknowledge that the Weekly Progress Reports and Monthly Progress Reports provided in accordance with this Section 3.19A shall include information for both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be reported separately in accordance with Attachment X).

B. ***Meetings***.

1. A weekly progress meeting shall occur every week at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior week. The meetings shall be attended by the Owner Representative, the Contractor Representative, the Owner planning and scheduling representative, the Contractor planning and scheduling representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

2. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior Month and to review the Monthly Progress Report for that Month with Owner. The Monthly progress meeting shall be attended by the Owner Representative, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

3. The Parties acknowledge that the weekly and monthly progress meetings held in accordance with this Section 3.19B shall include information related to both the Train 1 Expansion and Train 2 Expansion (other than certain information, including information related to cost and Change Orders, which shall be discussed separately in accordance with Attachment X).

3.20 **Payment**. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.21 **Commercial Activities**. Neither Contractor 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 Site or any other lands owned or controlled by Owner; *provided, however*, lunch wagons and vending machines may be permitted upon prior written approval by Owner.

3.22 **Title to Materials Found**. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by Owner. Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 **Survey Control Points and Layout**. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to Section 4.7. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control points provided

by Owner, such control points shall be replaced by Contractor at Contractor's own expense and Contractor shall be liable to Owner for all other damages, costs, losses and expenses arising out of such relocation or destruction.

3.24 **Cooperation with Others**.

A. Subject to the provisions of this Agreement, including Section 4.3, Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. As such, but subject to the provisions of this Agreement (including Section 4.3), Owner reserves the right to require Contractor 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, *provided that*, but subject to Sections 21.22 and 3.24B, if Owner's requirement to reschedule the Work interferes with Contractor's performance of the Work, Contractor shall be entitled to a Change Order to the extent allowed under Section 6.9.

B. Contractor understands that Owner may choose to expand the Expansion Facility (beyond the current Scope of Work and the Train 1 EPC Agreement) under one or more separate agreements, including adding additional natural gas pretreatment and liquefaction units. Such other agreements may or may not involve Contractor and may be performed during the course of the completion of the Work covered under this Agreement. In the event Contractor is not participating in such separate agreement(s), Contractor agrees to cooperate with Owner's other contractor(s) so as not to materially interfere with such other contractor, and Owner agrees to require its other contractor to cooperate with Contractor so as not to materially interfere with Contractor. In the event Contractor does participate in any or all such separate agreements, Contractor acknowledges that any such work performed by Contractor shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 2 Project Schedule or any other Changed Criteria.

3.25 **Scheduled and Unscheduled Activities Involving the Existing Facility and the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement**.

A. ***Scheduled Activities***. Listed in Attachment CC is the Work (i) that is being performed on the Existing Facility Site or the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement) or (ii) which may interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement) or the Existing Facility (including any Existing Facility Modifications which have been Handed Over pursuant to Section 11.2A). No later than fourteen (14) Days prior to performing such Work, Contractor shall provide Owner with a written plan listing the Work to be performed and proposing in detail how Contractor intends that such Work will be performed to minimize, to the greatest extent reasonably possible, interference with the operation of the Train 1 Expansion or the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A). The plan proposed by Contractor shall be the least disruptive to operations of the Train 1 Expansion or Existing Facility

(including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A), unless such plan is disproportionately expensive when compared to the impact on such operations. Prior to the execution of such Work, Owner and Contractor shall mutually agree upon a proposed plan for Contractor to execute such Work.

B. ***Unscheduled Activities***. It is the Parties' intent that, except for the activities listed in Attachment CC, the performance of the Work and Contractor's other obligations under this Agreement will not be performed on the Existing Facility Site or the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement) or interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement) or the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A). During the performance of the Work, should a situation arise that requires additional Work to be performed on the Existing Facility Site or the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement), or which Contractor reasonably believes has the potential of interfering with the operation of the Train 1 Expansion or the Existing Facility (including any Existing Facility Modifications that have been Handed Over pursuant to Section 11.2A), Contractor shall, except in an emergency endangering property or any Persons, give Owner written notice as soon as possible but no later than seven (7) Days' prior to the time that Contractor plans to perform such Work, detailing a plan that meets the requirements of Section 3.25A. Emergency actions are governed by Section 3.11. Prior to performing such Work, Owner and Contractor shall mutually agree on a proposed plan for Contractor to execute such Work. Notwithstanding Owner's agreement to the schedule and the plan for the performance of such Work, Owner may, in its sole discretion, subsequently prohibit the performance of such Work on such scheduled date, and Contractor shall work with Owner to develop a new plan and date for performing such Work in accordance with this Section 3.25B, and in such case Contractor shall be entitled to a Change Order to the extent permitted under Section 6.2A.1.

3.26 **Responsibility for Property**. Contractor shall carry out the Work so as not to interfere unnecessarily or improperly with, or damage, any access to, use or occupation of, public or private roads and footpaths or properties whether in the possession of Owner or of any other Person. Contractor shall liaise with, and ascertain the requirements of, all Governmental Instrumentalities in relation to vehicular access to and egress from the Site and shall comply with those requirements. Contractor shall so organize the Work as to minimize, and if required by any Governmental Instrumentalities having jurisdiction over such roads or footpaths, avoid vehicular travel during peak travel time on public roads, such as (but not limited to) school start and finish times. Contractor shall prevent damage to any highway or bridge by any traffic of Contractor or any Subcontractor or Sub-subcontractor and in particular, but without limitation, shall select routes, obtain all permits and permissions from relevant Governmental Instrumentalities, choose and use vehicles, and restrict and distribute loads so that any traffic interference which may arise from the moving of equipment and materials to and from the Site shall be limited as far as reasonably possible and so that no damage will be caused to highways and bridges. Contractor shall be deemed to have satisfied itself as to and shall be fully responsible for the routing for delivery of heavy or large loads to the Site or other locations where Work is performed. Contractor shall be fully responsible for all damages, losses, costs and expenses arising out of damage to such

third-party property and shall promptly restore at its own cost and expense such property to the condition it was in before such damage. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site. Where the nature of the Work is such as to require the use by Contractor of waterborne transport, Contractor shall avoid, or minimize to the extent possible, any interference by Contractor with the access by and use of the common harbor, waterways and jetty by other Persons.

3.27 **Explosives**. Explosives shall be transported to the Expansion Facility Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives. Residual surplus explosives shall be promptly removed from the Expansion Facility Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.28 **Nondiscrimination**. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, national origin, religion, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.28.

3.29 **Used or Salvaged Materials**. If, after Substantial Completion and prior to Final Completion, Contractor has any Equipment (including commissioning spare parts) that it intended for use with the Train 2 Expansion but did not incorporate therein, Owner has the option of either taking such Equipment at no cost to Owner or require that Contractor haul off such Equipment at Contractor's own cost and expense. Notwithstanding the foregoing, all Capital Spare Parts and operating spare parts itemized on the Owner-approved spare parts list prepared pursuant to Section 3.4 shall be the property of FLIQ CF and shall only be utilized by Contractor upon Owner's prior written agreement in accordance with such Section 3.4.

3.30 **Supervision of Owner's Operation Personnel**. Until Substantial Completion (but subject to Owner rights under Section 11.8), Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Train 2 Expansion shall be under the control of and supervised by Contractor; *provided, however*, Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Common Systems that achieved substantial completion pursuant to the Train 1 EPC Agreement shall be under the control of, and supervised by, Owner (or its Affiliate); *provided further, however*, notwithstanding the foregoing, all such operating and maintenance personnel shall remain employees or agents of Owner (or its Affiliates) and shall not be considered employees of Contractor for any reason. To the extent not set forth in Attachment V, Contractor shall, no later than two hundred seventy (270) Days prior to

the Guaranteed Substantial Completion Date, prepare for Owner's review a proposed plan regarding the utilization of Owner's (or its Affiliates') operation and maintenance personnel and Contractor's personnel during pre-commissioning, commissioning, start-up and operations of the Train 2 Expansion and the conduct of Performance Tests and any other tests for the Train 2 Expansion. Each such plan shall be prepared so as to minimize, to the extent reasonably possible under the circumstances (considering the need to keep the Existing Facility, and the Train 1 Expansion after substantial completion under the Train 1 EPC Agreement, operable), any impact on the operation of the Existing Facility and the Train 1 Expansion and to take into account the Existing Facility and the Train 1 Expansion operating and maintenance procedures, the number of operating and maintenance personnel available to Owner for participation in pre-commissioning, commissioning, start-up and Performance Testing, safety issues for the Train 2 Expansion and the type of activities to be performed. Such plan shall be mutually agreed-upon by the Parties no later than forty-five (45) Days after Owner's receipt of Contractor's proposed plan. Without in any way limiting Contractor's obligation to provide forces and labor during commissioning and Performance Testing, Contractor agrees that if any activity requires direct supervision by Contractor, such activity shall be performed by Contractor or a Subcontractor or Sub-subcontractor. Nothing in this Agreement, including this Section 3.30 or Section 3.2H, shall be interpreted to create a master-servant or principal-agent relationship between Contractor and any of Owner's (or Owner's Affiliates') operation or maintenance personnel.

3.31 **Use of Owner Equipment or Facilities**. Where Contractor requests from Owner and Owner agrees in writing to make available to Contractor certain construction equipment (*e.g.*, cranes, mules, tools, etc.) belonging to Owner for the performance of the Work, the following shall apply:

A. Owner-provided construction equipment shall be charged to Contractor at rental rates to be agreed between them;

B. Owner shall furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by Contractor during the rental period;

C. Contractor shall assure itself of the condition of such construction equipment and assume all risks and responsibilities during its use, it being understood by the Parties that any use of Owner's construction equipment is strictly on an "AS IS" basis and OWNER HEREBY DISCLAIMS, AND CONTRACTOR HEREBY WAIVES, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH CONSTRUCTION EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, CONDITION, OR FITNESS FOR ANY PARTICULAR PURPOSES OR USE;

D. To the fullest extent permitted by Applicable Law, Contractor shall, notwithstanding anything to the contrary in Article 17, release, defend, indemnify and hold harmless Owner Indemnified Parties from and against any and all claims, demands and liabilities directly or indirectly arising from the use of such construction equipment;

E. Owner and Contractor shall jointly inspect such Owner equipment or facilities before their use and upon their return. Any damage or destruction of such

construction equipment, other than normal wear and tear, shall be repaired or replaced at Contractor's expense; and

F. If such construction equipment is furnished with an operator, the services of such operator shall be performed under the complete direction and control of Contractor and such operator shall be considered Contractor's employee for all purposes other than the payment of wages, workers' compensation insurance and other employment benefits.

3.32 **Compliance with Real Property Interests**. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors performing Work at the Site to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work.

ARTICLE 4
OWNER'S RESPONSIBILITIES

Owner shall comply with the following provisions in a timely manner:

4.1 **Payment**. Owner shall timely pay the Contract Price in accordance with the provisions of Article 7 hereof.

4.2 **Permits**. Owner shall be responsible for obtaining the Permits listed in Attachment Q. To the extent Owner has not obtained any Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment Q and Owner shall provide Contractor with copies of such Permits within ten (10) Business Days after obtaining them. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 **Access to the Site**. Owner shall provide Contractor with reasonable access on the Train 2 Expansion Site. Subject to Section 3.24, such access shall be sufficient to permit Contractor to progress with Work (including as necessary to perform Work under an LNTP) on a continuous basis without substantial interruption or interference. In addition, Owner shall provide Contractor with reasonable access on the Existing Facility Site, and the Train 1 Expansion Site (after FLIQ1 (or its Affiliate) takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), necessary for the performance of the Work; *provided, however*, except as allowed pursuant to Section 3.25, such access shall not interfere with the operation of the Existing Facility or the Train 1 Expansion, nor shall it interfere with the performance of work by Owner's other contractors or subcontractors or other Persons. Contractor shall have the obligation to coordinate the performance of the Work with Owner and with any of Owner's other contractors or subcontractors as required in Sections 3.2P and 3.24.

4.4 **Operation Personnel**. Owner shall retain (through itself or an Affiliate) operating and maintenance personnel sufficient to pre-commission, commission, start-up and test the Train 2 Expansion under the supervision of Contractor during commissioning as set forth in Attachment V. Such personnel performing activities for the Train 2 Expansion shall be under the control of and supervised by Contractor in accordance with Section 3.30. For clarity, however, Owner (or its Affiliate) shall provide and pay for all of Owner's (or such Affiliate's) operating and maintenance personnel, including all wages, fringes, taxes and insurance.

4.5 **Texas Sales and Use Taxes**.

A. ***Sales and Use Taxes Exemption Certificates on Exempt Equipment***.

1. For Texas state and local sales and use tax purposes, this Agreement shall be considered to be a separated contract for the construction of new non-residential real property as defined under Applicable Law, including 34 Tex. Admin Code Rule § 3.291(a)(13). Contractor shall ensure that all Subcontracts are separated for Texas state and local sales and use tax purposes.

2. Listed in Attachment FF are those items of Equipment (including materials) to be permanently installed in the Train 2 Project in which Owner intends to claim a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes under Applicable Law, including the governing law specified in Section 21.9 ("***Tax Exempt Equipment***"), which such list may be adjusted by Owner at its sole discretion by Change Order. In addition, with respect to any additional items of Equipment added by Change Order which are subject to a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes, Owner will update the list of Tax Exempt Equipment in Attachment FF.

3. Prior to issuance of NTP or any LNTP directing Contractor to procure any Equipment, and to the extent not already included in Attachment GG, Owner shall issue a Texas direct pay exemption certificate and Texas Sales and Use Tax Exemption Certificate(s) to Contractor, and Contractor shall not invoice Owner for Texas state and applicable local sales and use tax on the separately stated Tax Exempt Equipment Price and separately stated Taxable Equipment Price. Pursuant to direct pay permit status, Owner shall pay Texas state and applicable local sales and use tax directly to the State of Texas and the applicable local Governmental Instrumentality on the Taxable Equipment Price. Contractor shall provide the documents and information necessary to allow the Owner to properly determine this tax liability. Contractor shall maintain for Owner's review copies of Texas state and applicable local sales and use tax exemption certificates and other similar documentation necessary to support all Texas state and applicable local sales and use tax exemptions that may be available to Owner, Contractor or any Subcontractor or Sub-subcontractor in connection with the Work.

4. Contractor shall reasonably cooperate with Owner to minimize any and all Texas state and applicable local sales and use taxes relating to the Train 2 Project. If Contractor or any Subcontractor or Sub-subcontractor incurs any Texas state and applicable local sales and use taxes on any items of Tax Exempt Equipment or Taxable Equipment listed in Attachment FF for which Owner provided Contractor with a valid applicable Texas state and applicable local sales and use tax exemption certificate or direct pay exemption certificate, Contractor shall be responsible for the payment of such Texas state

and applicable local sales and use taxes without reimbursement by Owner and CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY CLAIMS BY A GOVERNMENTAL INSTRUMENTALITY FOR SUCH TEXAS STATE AND APPLICABLE LOCAL SALES AND USE TAXES.

B. ***Additional Contractor Texas Sales and Use Tax Responsibilities***. Contractor shall be considered a retailer of all Equipment incorporated into the Work. Contractor shall issue a valid Texas sales and use tax resale exemption certificate for Taxable Equipment and Tax Exempt Equipment to its Subcontractors, and Contractor shall not pay, consistent with such exemption certificate, any sales and use tax on Taxable Equipment and Tax Exempt Equipment to Subcontractors. Notwithstanding the foregoing, Contractor shall remain responsible for the payment of all Taxes on account of the Work, including Texas state and applicable local sales and use taxes on any purchase, lease or rental of construction equipment and on any other purchases related to Work other than the Tax Exempt Equipment and Taxable Equipment.

4.6 **Hazardous Materials**. Owner shall remediate, remove, transport or dispose of any Hazardous Materials discovered or released at the Site (including Hazardous Materials used or generated by operation of the Existing Facility), including any Hazardous Materials brought on the Site by third parties, but excluding any Hazardous Materials that are the responsibility of Contractor pursuant to Section 3.17. Contractor shall provide reasonable assistance to Owner in its Hazardous Material remediation efforts. OWNER SHALL DEFEND, INDEMNIFY AND HOLD CONTRACTOR INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES) INCURRED BY CONTRACTOR CAUSED BY ANY HAZARDOUS MATERIALS FOR WHICH OWNER IS RESPONSIBLE UNDER THIS SECTION 4.6.

4.7 **Legal Description and Survey**. Owner shall provide to Contractor for Contractor's information a legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point.

4.8 **Owner Provided Items**. Owner shall provide those items listed in this Section 4.8 and in Attachment Z within the times listed therein, subject to the requirements and limitations set forth in this Section 4.8.

A. ***Natural Gas Feed to Achieve Substantial Completion***. As between Owner and Contractor under this Agreement, Owner shall procure and make natural gas feed available for commissioning, start-up, cool down and testing of the Train 2 Expansion (including natural gas or LNG utilized in the initial cool-down of the Train 2 Expansion). The natural gas feed to the Train 2 Expansion will meet the pressure, temperature and quality requirements set forth in Schedule A-2 in accordance with this Section 4.8A and the delivery requirements as set forth by Section 4.8A(i) below. Such natural gas feed shall be made available by (or on behalf of) Owner at the inlet of the natural gas pretreatment facilities to be constructed by Contractor as part of the Work. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all natural gas feed in order for Contractor to achieve Substantial Completion. Contractor

shall use GECP to minimize the amount of natural gas flaring or venting that is necessary to achieve Substantial Completion, and the start-up, commissioning and testing procedures agreed upon by the Parties shall be developed and administered in a manner to minimize natural gas flaring and venting. Further, Owner and Contractor will use reasonable efforts to allow for recirculation of natural gas and LNG between the Existing Facility and the Train 2 Expansion and between the Train 1 Expansion and the Train 2 Expansion after substantial completion of the Train 1 Expansion to aid Contractor in the start-up, cool down, commissioning and testing of the Train 2 Expansion to assist in minimizing the amount of natural gas flaring or venting necessary to achieve Substantial Completion.

(i) In order for Owner to schedule the procurement of natural gas feed to be provided by Owner in accordance with Section 4.8A, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing its first delivery of natural gas feed for the Train 2 Expansion. Within such written notice, Contractor shall provide Owner with a range of days and a range of flows for each Day which Contractor, using GECP, believes it will need for delivery of natural gas feed in order to achieve Substantial Completion. No later than the twentieth (20^{th}) day of the Month prior to the Month in which natural gas feed will first be delivered, Contractor will provide a second written notice to Owner with an updated forecast of the days and amounts of natural gas feed deliveries for such Day necessary to achieve Substantial Completion of the Train 2 Expansion, which such Days and amounts shall be within the ranges provided by Contractor in its initial notice. If Contractor provides the above notices in accordance with this Section 4.8A(i), Owner will procure such natural gas feed in accordance therewith, subject to the limitations set forth in Section 4.8A; if Owner fails to provide natural gas feed as required herein, and Contractor provided Owner with the notices required by this Section 4.8A(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the natural gas feed). Owner shall use reasonable efforts to procure natural gas feed deliveries in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure natural gas feed deliveries which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 2 Project Schedule or any other Changed Criteria.

B. ***Electrical Power Requirements to Achieve Substantial Completion***. Contractor shall procure and pay for all electricity necessary for the design, engineering, procurement and construction of the Train 2 Expansion until RFSU for the Train 2 Expansion. Thereafter, as between Owner and Contractor under this Agreement, Owner shall procure and make electricity available for the Train 2 Expansion meeting the requirements set forth in Schedule A-2 in accordance with this Section 4.8B for the commissioning, start-up and testing (including Performance Testing) of the Train 2 Expansion. Such electricity feed shall be made available by (or on behalf of) Owner at the interface between CenterPoint's high voltage transmission lines and the Facility's high voltage transmission lines. As between Owner and Contractor under this Agreement,

Owner shall procure, at its sole cost, all electricity necessary from RFSU for achievement of Substantial Completion of the Train 2 Expansion. Contractor shall use GECP to use electricity in the most efficient manner practicable between RFSU and Substantial Completion of the Train 2 Expansion and minimize the consumption of electricity that is not utilized in producing incremental volumes of LNG meeting the specifications of this Agreement. The start-up, commissioning and testing procedures to be agreed upon by the Parties shall be developed and administered in a manner to ensure efficient use of electricity. For purposes of clarity, after Substantial Completion of the Train 2 Expansion and as between Owner and Contractor under this Agreement, Owner shall provide and pay for all electricity consumed by the Train 2 Expansion (whether consumed in the production of incremental on-spec LNG or otherwise).

(i) In order for Owner to schedule the procurement of electricity to be provided by Owner in accordance with Section 4.8B, Contractor shall provide Owner with written notice at least ninety (90) Days prior to the scheduled date for achievement of RFSU of the Train 2 Expansion (as shown on the most recent Monthly Updated CPM Schedule). Within such written notice, Contractor shall provide Owner with a daily power load profile which Contractor, using GECP, anticipates for its electricity consumption between RFSU and Substantial Completion. At least forty-five (45) Days prior to the scheduled date for achievement of RFSU of the Train 2 Expansion (as shown on the most recent Monthly Updated CPM Schedule), Contractor shall provide Owner with a second written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the first forty-five (45) Day period after RFSU is achieved for the Train 2 Expansion. Every forty-five (45) Days thereafter, Contractor shall provide Owner with written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the next forty-five (45) Day period (or until Substantial Completion is achieved for the Train 2 Expansion). For purposes of clarity, and by way of example and explanation only, if Contractor's second written notice (provided 45 Days prior to the scheduled achievement of RFSU) was provided on March 1st (for a scheduled RFSU achievement on April 14th), such notice should provide an estimate for power usage from April 14th until May 28th. Then, on April 14th, Contractor shall provide Owner with written notice estimating the power usage from May 29th until July 12th. Contractor shall provide similar notices every 45 Days thereafter until it has estimated its power usage up to the scheduled date of Substantial Completion for the Train 2 Expansion. If Contractor provides the above notices in accordance with this Section 4.8B(i), Owner will procure electricity in accordance therewith; if Owner fails to provide electricity as required herein, and Contractor provided Owner with the notices required by this Section 4.8B(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the electricity). In the event Contractor's planned activities between RFSU and Substantial Completion deviate from those assumed for purposes of estimating the power loads necessary to be supplied by Owner (such that the estimated power loads necessary for Contractor's activities change significantly in either amount, timing, or both), Contractor shall, as soon as reasonably possible, provide Owner

with written notice of such deviations and provide new estimates for the power loads that have been previously estimated by Contractor.

C. ***Propane and Ethylene***. As between Owner and Contractor under this Agreement, Owner shall timely procure and pay for sufficient quantities of propane and ethylene (including any makeup propane and ethylene) for commissioning, startup and testing of the Train 2 Expansion. The propane and ethylene shall meet the specifications set forth in Attachment A. In order for Owner to schedule the supply of the quantities of propane and ethylene, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing delivery of the initial quantities of propane and ethylene for the Train 2 Expansion. Within such written notice, Contractor shall provide Owner with the quantities (itemized among the initial quantities and any makeup quantities) for both ethylene and propane which, using GECP, Contractor believes it will need in order to achieve Substantial Completion of the Train 2 Expansion. No later than ten (10) Days prior to Contractor's desired delivery date for the initial quantities of ethylene and propane, Contractor will provide a second written notice to Owner confirming or updating the quantities and delivery dates for the supply of ethylene and propane. If Contractor provides the above notices in accordance with this Section 4.8C, Owner will procure such ethylene and propane in accordance therewith; if Owner fails to provide propane or ethylene as required herein, and Contractor provided Owner with the notices required by this Section 4.8C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to provide the propane or ethylene). Owner shall use reasonable efforts to procure ethylene and propane in amounts in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure supplies which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 2 Project Schedule or any other Changed Criteria.

D. ***LNG Evacuation Requirements***. Owner shall evacuate LNG produced by the Train 2 Expansion from the LNG storage tanks in amounts necessary for Contractor to achieve Substantial Completion of the Train 2 Project (subject to Section 11.4A). In addition (but subject to Section 11.4A), Owner shall ensure that adequate storage remains available (in accordance with this Section 4.8D) for Contractor to achieve Substantial Completion notwithstanding Train 1 Expansion operations and use of the LNG storage tanks. Owner shall evacuate LNG from the LNG storage tanks in accordance with the notice procedure set forth in Section 11.1C. If Owner fails to provide LNG evacuation at the times and in the amounts required by Section 11.1C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 2 Project Schedule to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing Owner's inability to evacuate LNG from the LNG storage tanks). In addition to the LNG storage capacity available from the Existing Facility LNG storage tanks prior to commissioning of the Train 2 Expansion, Owner shall evacuate a minimum of 1,250,000 cubic meters of LNG from the LNG storage tanks (to the extent such amount is necessary for Contractor to achieve Substantial Completion) for the commissioning, tuning and testing of the Train 2 Expansion ("***LNG Evacuation Requirement***"). If Contractor requires additional

amounts of LNG evacuated from the LNG storage tanks in order to achieve Substantial Completion, Owner shall evacuate such LNG in accordance with the requirements of Section 11.1C; *provided, however*, for each cubic meter of LNG evacuated by Owner above the LNG Evacuation Requirement, Contractor shall be liable to Owner for any actual, incremental costs to Owner (net costs after accounting for any revenues received by Owner as a result of such evacuation) not to exceed Twenty Four U.S. Dollars (U.S.$24.00) per cubic meter of LNG evacuated above the LNG Evacuation Requirement; *provided further, however*, that Contractor's aggregate liability to Owner for the foregoing incremental costs shall not exceed Twenty Million U.S. Dollars (U.S.$20,000,000) (and any such liabilities incurred by Contractor shall accrue against Contractor's aggregate liability under Section 20.1). While adhering to the LNG evacuation schedule required by Section 11.1C, Owner will use commercially reasonable efforts to avoid or minimize any net costs it incurs in providing LNG evacuation above the LNG Evacuation Requirement.

E. ***LNG Tanker Loading Requirements***. As between Owner and Contractor under this Agreement, Owner shall provide Contractor with LNG Tanker loading opportunities in order for Contractor to conduct the Ship Loading Performance Test for the Existing Facility LNG loading dock and the Expansion Facility Dock. For clarity, only one successful Ship Loading Performance Test, performed in accordance with Attachment S, is necessary for each of the LNG loading docks (*i.e.*, one successful test for the Existing Facility LNG loading dock to be modified as part of the Existing Facility Modifications and one successful test for the Expansion Facility Dock to be constructed as part of the Common Development Work). When performing the Ship Loading Performance Test for each LNG loading dock, Owner shall have, or cause to have, the LNG Tanker cold and ready to accept LNG transfer with no constraints on loading rates at or below the Ship Loading Rate MAC. Contractor shall have the right to determine which LNG Tanker loading opportunities provided by Owner will be utilized for the Ship Loading Performance Tests. Subject to Section 11.4A, Contractor will be provided with enough LNG Tanker loading opportunities for Contractor to successfully achieve the Ship Loading Performance Tests. Notwithstanding the foregoing, however, if (i) Contractor has been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Expansion Facility Dock, (ii) Contractor's only barrier to achieving Substantial Completion of the Train 2 Expansion is passing the Ship Loading Performance Test for the Expansion Facility Dock and (iii) Contractor is otherwise ready to perform such Ship Loading Performance Test, then Contractor's liability for Substantial Completion Delay Liquidated Damages shall not exceed thirty (30) Days of Substantial Completion Delay Liquidated Damages in the event Contractor is unable to conduct a Ship Loading Performance Test on the Expansion Facility Dock due to Owner's inability to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. If the foregoing circumstances arise, once Contractor is provided with its next LNG Tanker loading opportunity (after Contractor has been provided with the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test on the Expansion Facility Dock), if the Ship Loading Performance Test is unsuccessful, Contractor's liability for Substantial Completion Delay Liquidated Damages shall re-commence but shall not exceed thirty (30) Days of additional Substantial Completion

Delay Liquidated Damages if Owner is unable to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. Subject to Section 11.4A, the foregoing 30-Day limitation on Substantial Completion Delay Liquidated Damages and re-commencement of such Delay Liquidated Damages after an unsuccessful Ship Loading Performance Test shall continue until the Ship Loading Performance Test is achieved for the Expansion Facility Dock. To the extent necessary for successful achievement of the Ship Loading Performance Test, Owner will use commercially reasonable efforts to provide Contractor with additional LNG Tanker loading opportunities as soon as possible after the initial ten (10) loadings have been provided.

1. In the event that (i) Contractor has not been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test for the Expansion Facility Dock, (ii) Contractor is ready to perform the Ship Loading Performance Test for the Expansion Facility Dock, and (iii) such Ship Loading Performance Test is Contractor's only barrier to achieving Substantial Completion for the Train 2 Expansion, Contractor (once the Guaranteed Substantial Completion Date has arrived or if it has passed) shall be entitled to an extension to the Train 2 Project Schedule and adjustment to the Contract Price to the extent allowed under Section 6.8 or 6.9 (depending upon the circumstances causing the delay in providing LNG Tanker loading opportunities to Contractor) until the earlier of (1) a successful Ship Loading Performance Test is achieved or (ii) Owner provides (or causes to be provided) the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test at the Expansion Facility Dock.

2. Notwithstanding anything to the contrary in Section 6.13 or elsewhere herein, Owner and Contractor agree and acknowledge that any rights to relief by Contractor arising out of or resulting from delays in providing Contractor with ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test for the Existing Facility LNG loading dock are set forth in the Train 1 EPC Agreement, and Contractor shall not be entitled to any adjustment to the Contract Price or modification of any other Changed Criteria under this Agreement as a result therefrom.

ARTICLE 5
COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS

5.1 **Commencement of Work**. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence with the performance of the Work specified in such LNTP or NTP.

5.2 **Limited Notice to Proceed/Notice to Proceed**.

A. ***Limited Notices to Proceed***.

1. On the Effective Date, Owner shall issue to Contractor LNTP No. 1 in the form of Schedule H-3 ("***LNTP No. 1***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 1, subject to the payment provisions and maximum payments set forth in LNTP No. 1. The intent of LNTP No. 1 is for Contractor to perform Work that was previously on-going under the FEED Agreement for the Train 2 Expansion after execution of this Agreement, and additional Work activities, all as set forth in LNTP No. 1. All Work performed under LNTP No. 1 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 1 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 1 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 1 in Schedule C-1.

2. No later than March 15, 2014, Owner shall issue to Contractor LNTP No. 2 in the form of Schedule H-4 ("***LNTP No. 2***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 2, subject to the payment provisions and maximum payments set forth in LNTP No. 2. The intent of LNTP No. 2 is to allow Contractor to issue Subcontracts for certain critical long lead Equipment items as further set forth in LNTP No. 2. All Work performed under LNTP No. 2 shall be performed pursuant to the terms and conditions of this Agreement, except payments for Work performed under LNTP No. 2 shall be made in accordance with the payment terms set forth in such LNTP rather than as set forth in Article 7. Notwithstanding the foregoing, all payments for the LNTP Work under LNTP No. 2 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 2 in Schedule C-1. If Owner fails to issue LNTP No. 2 on or before March 15, 2014 or FLIQ1 fails to issue its second limited notice to proceed under the Train 1 EPC Agreement on or before the date set forth therein for its second limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

3. No later than May 1, 2014, Owner shall issue to Contractor LNTP No. 3 in the form of Schedule H-5 ("***LNTP No. 3***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 3, subject to the payment provisions and maximum payments set forth in LNTP No. 3. The intent of LNTP No. 3 is to allow Contractor a full release of engineering and procurement activities under the Agreement to the extent set forth in LNTP No. 3. All Work performed under LNTP No. 3 shall be performed pursuant to the terms and conditions of this Agreement and payment for Work performed under LNTP No. 3 shall be invoiced in accordance with Article 7 and the Payment Milestone Schedule based upon completion of Payment Milestones by performance of Work under LNTP No. 3 (and thereby be credited against the Contract Price); *provided that*, the maximum amount invoiced for Work performed under LNTP No. 3 cannot exceed the maximum amount set forth in LNTP No. 3 even if Payment Milestones in amounts greater than such

maximum amount are completed during the performance of LNTP No. 3. If Owner fails to issue LNTP No. 3 on or before May 1, 2014, or FLIQ1 fails to issue its third limited notice to proceed under the Train 1 EPC Agreement by the date set forth therein for its third limited notice to proceed, then Contractor shall have the rights set forth in Section 5.2C.

4. At any time prior to the date of issuance of NTP, Owner may issue additional LNTPs in the form set forth in Schedule H-1, which shall authorize Contractor to commence performance of a specified portion of the Work; *provided that*, if issuance of such additional LNTP interferes with or delays the sequence and timing of Contractor's planned execution of the Work, then Contractor shall be entitled to a Change Order to adjust the Contract Price and Project Schedule in accordance with Section 6.9 as a result of the issuance of such additional LNTP. Each such LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Contract Price (as it may be adjusted by Change Order) and the first progress payment(s) to become due hereunder. Each LNTP shall be performed on a fixed-price basis, in accordance with the Payment Milestones defined in Attachment C, Schedule C-1 and the agreed upon payment terms, unless otherwise mutually agreed in writing by the Parties.

B. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Upon Contractor's receipt from Owner of the NTP, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-2. If Owner fails to issue NTP on or before August 1, 2014, or FLIQ1 fails to issue notice to proceed under the Train 1 EPC Agreement on or before August 1, 2014, then Contractor shall have the rights set forth in Section 5.2C.

C. ***Contract Price and Train 2 Project Schedule Validity and Delay in Issuance of LNTPs or NTP***. Subject to Section 5.2C.1 below, in order for the Contract Price and Train 2 Project Schedule to remain valid under this Agreement, Owner shall issue LNTP No. 2, LNTP No. 3 and NTP on or before the dates set forth in Sections 5.2A.2, 5.2A.3 and 5.2B, respectively, and FLIQ1 shall issue its second and third limited notices to proceed and notice to proceed under the Train 1 EPC Agreement on or before such same dates (as further set forth in Sections 5.2A.2, 5.2A.3 and 5.2B of the Train 1 EPC Agreement). If Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP, or FLIQ1 fails to issue its second or third limited notice to proceed or notice to proceed, in accordance within the dates established by the foregoing sentence, as such dates may be extended as set forth in Section 5.2C.1 below, then Contractor shall be entitled to an adjustment to the Contract Price and the Train 2 Project Schedule (including the Guaranteed Substantial Completion Date) if and to the extent the Parties' utilization of an open book estimate process substantially similar to that performed under the FEED Agreement shows, through a reevaluation of the Contract Price and Train 2 Project Schedule (including Subcontracts, labor costs, per diems, equipment and bulk material

costs and delivery schedules), that issuance of LNTP No. 2, LNTP No. 3 or NTP under this Agreement, or the second or third limited notice to proceed or notice to proceed under the Train 1 Agreement, after the required dates set forth herein (as compared to on or before such dates) has resulted in increased costs chargeable to Contractor or an increased time for the performance of the Work (including 19% on such increased costs for Contractor's G&A and profit). For the avoidance of doubt, any adjustment to the Contract Price or Train 2 Project Schedule shall not be based upon a change in the scope of engineering work or the quantity of materials or equipment, or the amount of field labor or field in-directs, unless the staffing plan or Train 2 Project Schedule is materially affected by late issuance of the LNTPs or NTP described in this Section. Contractor shall use commercially reasonable efforts and GECP to mitigate the increase to the Contract Price or delay to the Train 2 Project Schedule.

1. If Contractor has not procured and delivered to Owner price and schedule offers on the CLL Equipment (as defined in LNTP No. 2) by February 15, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 2 shall extend Day-for-Day for each Day beyond February 15, 2014 that Contractor has not so procured such price and schedule offers and delivered them to Owner. In addition, if Contractor has not procured and delivered to Owner price and schedule offers (as applicable) for the remaining Provisional Sum Scope Items and Schedule Adjustment Items by April 1, 2014 in accordance with Attachment DD, the time period required for Owner to issue LNTP No. 3 shall extend Day-for-Day for each Day beyond April 1, 2014 that Contractor has not so procured the applicable price and schedule offers and delivered them to Owner.

2. In the event that Owner fails to issue LNTP No. 2, LNTP No. 3 or NTP within the time periods required by this Agreement, or FLIQ1 fails to issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 1 EPC Agreement, and the Parties have not mutually agreed in writing to extend the applicable time periods (or they have not been extended pursuant to Section 5.2C.1), Contractor shall be entitled to an adjustment to the Contract Price and Train 2 Project Schedule as set forth in Section 5.2C above and such adjustments shall be set forth in a Change Order prior to Contractor being required to commence Work under an NTP issued by Owner. For purposes of clarity, in the foregoing circumstances, Owner may also not require Contractor to commence the Work (other than Work already authorized under prior LNTPs or LNTPs allowed as set forth below) pursuant to a unilateral Change Order issued under this Agreement; *provided that*, notwithstanding the foregoing, Owner shall retain the right to issue additional LNTPs pursuant to Section 5.2A.4 for the limited purposes of progressing activities related to receiving an Updated Contract Price and Train 2 Project Schedule Proposal and otherwise mitigating against potential increases in the Contract Price and Train 2 Project Schedule related thereto.

3. Prior to issuance of NTP, Owner and Contractor shall meet monthly (either as part of the Monthly progress meeting under Section 3.19B or apart therefrom) to discuss the status of pending Permits, Owner's financing progress for the Expansion Facility and otherwise discuss any potential concerns related to Owner being able to achieve the LNTP and NTP time periods set forth above. If necessary, Owner shall have the right to submit a written notice to Contractor notifying Contractor that Owner may not issue LNTP No.2, LNTP No. 3 or NTP within the time periods required by this Agreement (or that FLIQ1 may not issue its second or third limited notice to proceed or notice to proceed within the time periods required by the Train 1 EPC Agreement) and requiring Contractor to prepare an updated proposal for the Contract Price and Train 2 Project Schedule (the "***Updated Contract Price and Train 2 Project Schedule Proposal***") to be valid for Owner's acceptance for a period of ninety (90) Days from its issuance to Owner (or such other validity period that may be agreed upon by the Parties in writing). Such Updated Contract Price and Train 2 Project Schedule Proposal shall be performed in accordance with Section 5.2C above. In Owner's written notice to Contractor for the Updated Contract Price and Train 2 Project Schedule Proposal, Owner may request that Contractor's proposal include plans to accelerate the Work in order to maintain, to the extent practicable, the original Train 2 Project Schedule. Upon receipt of the written notice from Owner, Contractor shall promptly commence the update to the Contract Price and Train 2 Project Schedule and shall submit the Updated Contract Price and Train 2 Project Schedule Proposal as promptly as practicable, but in any event no more than sixty (60) Days after receipt of the foregoing written notice from Owner. Once received by Owner, the Updated Contract Price and Train 2 Project Schedule Proposal shall be subject to negotiation between Owner and Contractor, and if there are agreed adjustments, such adjustments shall be valid for Owner's acceptance within the validity period for the Updated Contract Price and Train 2 Project Schedule Proposal (or such other validity period that may be agreed upon in writing by the Parties). If the Parties agree on an updated Contract Price and Train 2 Project Schedule, the adjustments to the Contract Price and Train 2 Project Schedule shall be adjusted by Change Order signed by Owner and Contractor.

4. The Updated Contract Price and Train 2 Project Schedule Proposal shall be based upon a mutually agreed Work scope to continue under one or more LNTPs under this Agreement (and corresponding limited notices to proceed under the Train 1 EPC Agreement) until issuance of NTP hereunder by Owner and notice to proceed by FLIQ1 under the Train 1 EPC Agreement. If the Parties have not agreed upon an updated Contract Price and Train 2 Project Schedule, and Owner has not issued NTP under this Agreement (and FLIQ1 has not issued notice to proceed under the Train 1 EPC Agreement) within the validity period of the applicable proposal, Sections 5.2C.1 through 5.2C.3 shall apply in the event Owner requests subsequent updated proposals for the Contract Price and Train 2 Project Schedule.

5.3 **Train 2 Project Schedule**. Contractor shall perform the Work in accordance with the Train 2 Project Schedule set forth in this Section 5.3 and in Attachment E.

A. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Train 2 Expansion no later than 1,645 Days following Owner's issuance of LNTP No. 3 to Contractor ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

B. ***Required Final Completion Date***. Contractor shall achieve Final Completion no later than ninety (90) Days after achieving Substantial Completion ("***Required Final Completion Date***"). The Required Final Completion Date shall only be adjusted by Change Order as provided under this Agreement.

C. ***Schedule Adjustment Items***. The Train 1 Project Schedule shall be subject to adjustment prior to, or upon, issuance of LNTP No. 2 and LNTP No. 3 for certain Schedule Adjustment Items as further set forth in Attachment DD. Any such adjustments shall be set forth by Change Order issued in accordance with Attachment DD.

5.4 **CPM Schedule**.

A. ***Baseline CPM Schedule Submissions***. Within sixty (60) Days after the Owner's issuance of the NTP, Contractor shall prepare and submit to Owner for its review and written approval a baseline critical path method schedule consisting of a resource/work-hour loaded CPM Schedule using Primavera Project Planner version 6.x or higher detailed to a discipline, craft and subsystem level based upon the Work Breakdown Structure (upon Owner's approval, the "***Baseline CPM Schedule***"). The Baseline CPM Schedule shall, at a minimum, be detailed as a resource loaded schedule with project unit area, and discipline (as described in the Work Breakdown Structure) for activities for the Train 2 Project (including engineering, procurement, construction, pre-commissioning, commissioning, testing and startup), shall be fully integrated, shall be consistent with the Train 2 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date, and shall show an uninterrupted critical path from NTP through RFSU, RLFC, Substantial Completion and Final Completion. In addition, the Baseline CPM Schedule shall be capable of being integrated with the baseline critical path method schedule developed under the Train 1 EPC Agreement in order to produce a master baseline critical path method schedule for the combined Train 1 Project and Train 2 Project. With respect to each activity in the Baseline CPM Schedule, the Baseline CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value and projected work-hours as well as identify the Work interfaces for other parties' activities (including Owner, Owner's other contractors, and utility companies), which shall be sorted by the Work Breakdown Structure and scheduled start or another format agreed upon by Owner. The Baseline CPM Schedule shall represent Contractor's judgment, using GECP, as to how it shall complete the Work in compliance with the Train 2 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date. The Baseline CPM Schedule shall be submitted in electronic format, created by Primavera

Project Planner software back-up utility and including all Primavera Project Planner network data. Contractor shall submit with the Baseline CPM Schedule the following: (a) Primavera based listing of "predecessor/successor" in tabular format showing activities in the Baseline CPM Schedule, their predecessor activities and relationships and their successor activities and relationships; (b) progress "S" curve, showing the baseline plan, actual and forecast progress by Month for total progress of the Work, which shall be based on the Baseline CPM Schedule; (c) engineering discipline and overall engineering and construction manpower histograms showing forecast manpower required by Month, for scheduled completion of the Work; (d) Drawing log showing the Drawing number, title, planned, actual and forecast issue for construction ("***IFC***") release dates by discipline and reporting period; and (e) procurement log showing the Equipment Subcontract order number, description, forecast and actual bid release dates, Equipment Subcontract order release dates, required-at-Site dates and delivery dates.

B. ***Monthly Updated CPM Schedules.*** After approval by Owner of the Baseline CPM Schedule described in Section 5.4A, Contractor shall manage and update (no less frequently than once every month), using GECP, a critical path method schedule for the Work with Primavera Project Planner (each such updated schedule being a "***Monthly Updated CPM Schedule***") showing the actual, up-to-date progress of the Work and forecasted Work activities. The Monthly Updated CPM Schedule shall not modify the Baseline CPM Schedule or the Train 2 Project Schedule (including the Guaranteed Substantial Completion Date or the Required Final Completion Date), nor shall it change any dates that relate to Owner's obligations or Work interfaces under the Agreement. Each Monthly Updated CPM Schedule shall meet the requirements of Section 5.4 and Attachment X, and in addition shall (i) at a minimum be prepared with the same level of detail as the Baseline CPM Schedule, (ii) show the Baseline CPM Schedule, (iii) for each activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity and forecasted completion date for each such activity, (v) for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of RFSU, RLFC, Substantial Completion and Final Completion, and (vii) update the Monthly Updated CPM Schedule with all other information shown in the Baseline CPM Schedule, reflecting the Work as actually performed or as forecasted. In addition, the Monthly Updated CPM Schedule shall be capable of being integrated with the monthly updated critical path method schedule developed and updated under the Train 1 EPC Agreement in order to produce a master monthly updated critical path method schedule for the combined Train 1 Project and Train 2 Project. The Monthly Updated CPM Schedule shall be submitted to Owner in the same detail and form as required by the Baseline CPM Schedule. If Contractor changes the schedule logic, any durations or resource-loading with respect to any activity in its Monthly Updated CPM Schedule such that it deviates from the Baseline CPM Schedule, Contractor shall provide Owner with a written explanation of each such change along with the Monthly Updated CPM Schedule (but the Baseline CPM Schedule shall not be changed). Contractor shall promptly correct any errors or inconsistencies in the updates to the Monthly Updated CPM Schedule identified to Contractor by Owner and shall re-submit a corrected Monthly Updated CPM Schedule to Owner for review.

C. ***Review, Comments and Approvals of CPM Schedules***.

1. In addition to the approval of the Baseline CPM Schedule described in Section 5.4A, Owner shall review and approve any proposed adjustments to the Baseline CPM Schedule. The Baseline CPM Schedule shall not be adjusted except by Change Order.

2. No more than once every three (3) Months, Owner shall have the right to review, analyze and comment on the Monthly Updated CPM Schedule. As a component of the process for Owner's review of the Monthly Updated CPM Schedule pursuant to this Section 5.4C.2, Owner and Contractor shall conduct a schedule workshop with the Monthly Updated CPM Schedule and conduct a detailed schedule analysis on the CPM Schedule with third party software applications (selected and provided by Owner, at its cost) capable of performing forensic, metric and logic analysis on the CPM Schedule (such as Acumen Fuse™ or P6 Project Integrity Checker). A mutually agreed upon set of parameters and thresholds shall be set forth in writing and used by Contractor and Owner for this review. Based upon the schedule analysis (including the use of the third party software applications) and the agreed upon schedule parameters and thresholds, schedule corrections and/or optimizations shall be generated. All such correction and/or optimizations shall be mutually resolved by Contractor and Owner.

3. Any review, comment or approval by Owner of the Baseline CPM Schedule, any adjustments to the Baseline CPM Schedule or any Monthly Updated CPM Schedule shall not relieve Contractor of any obligations for the performance of the Work, nor shall it be construed to establish the reasonableness of the Baseline CPM Schedule or any Monthly Updated CPM Schedule. In addition, any review, comment or approval by Owner of any Monthly Updated CPM Schedule is for purposes of verifying Contractor's development of Monthly Updated CPM Schedules meeting the requirements of Section 5.4 and shall not, under any circumstances, change the Train 2 Project Schedule (including the Guaranteed Substantial Completion Date), alter the timing of any of Owner's obligations or Work interfaces identified in the Baseline CPM Schedule or otherwise modify any other aspect of the Baseline CPM Schedule. Owner shall be entitled to reasonably rely upon the Baseline CPM Schedule and any Monthly Updated CPM Schedules, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to plan, organize, direct, coordinate, perform, execute and complete each portion of the Work within the times set forth in the Train 2 Project Schedule.

D. ***30 Day Look-ahead Schedule***. No later than the tenth (10th) Day of each Month, Contractor shall submit to Owner a 30 Day look-ahead schedule ("***30 Day Look-ahead Schedule***"), which shall be based on the Monthly Updated CPM Schedule showing in detail the activities to be performed during the next thirty (30) Days, including target, forecast and actual dates for each activity, shall be detailed into project unit area

and discipline, and shall meet all other requirements of updates to the Monthly Updated CPM Schedule as described in Section 5.4C.

E. ***Form of Submittals; Access to Native Files***. Submittals of the Baseline CPM Schedule (as may be adjusted from time to time via Change Order) and the Monthly Updated CPM Schedules by Contractor to Owner shall be in both native electronic and paper format. Native electronic submissions of the Baseline CPM Schedule and the Monthly Updated CPM Schedules shall be provided via password-protected document control system access and may be downloaded from the secure system by Owner personnel having password authorization. Four (4) hard copies of each submittal shall be provided to Owner, and one (1) electronic copy shall be provided to Owner. Owner acknowledges that the native electronic files of the Baseline CPM Schedule and the Monthly Updated CPM Schedules include Contractor's Confidential Information of an extremely sensitive nature that is governed by the terms of this Agreement's confidentiality provisions. In addition to its confidentiality obligations hereunder, Owner shall regulate the distribution of, and access to, the native electronic files provided by Contractor on a need-to-know basis (including among its own employees and its Affiliates and Affiliates' employees) and shall only distribute such native electronic files to the extent necessary for the exercise of Owner's rights and obligations under this Agreement or as required by its Lenders. Such native electronic files shall be protected in the same manner, and under the same policies and procedures, that Owner protects Owner's Confidential Information, which such policies and procedures shall be of a level at least equal to industry standards for protection of like information.

F. ***Failure to Submit CPM Schedule***. In the event Contractor fails to provide the schedules in accordance with Sections 5.4 and 5.6, Owner shall have the right to withhold payment of Invoices due until compliance with Sections 5.4 and 5.6 is achieved.

5.5 **Recovery and Recovery Schedule**. If, at any time during the prosecution of the Work, (i) should the Monthly Updated CPM Schedule or Monthly Progress Report show that any activity on the critical path of the applicable CPM Schedule is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date (as such Guaranteed Substantial Completion Date or Required Final Completion Date may be adjusted by Change Order executed by the Parties), or should Contractor fail to provide a Monthly Updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on the critical path is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date, or should Contractor fail to achieve any Schedule Milestone within thirty (30) Days after the date specified for such Schedule Milestone (as such Schedule Milestones may be adjusted by Change Order executed by the Parties) and (ii) Contractor or any of its Subcontractors or Sub-subcontractors are in Owner's reasonable judgment responsible for such delay, Owner may, in addition to any other remedies that it may have under this Agreement, require that Contractor prepare a schedule to explain and display how it intends to regain compliance with the Baseline CPM Schedule during the immediate subsequent pay period or other period selected by Owner ("***Recovery Schedule***"). Contractor shall do the following after written notification by Owner of the requirement for a Recovery Schedule:

A. Within ten (10) Business Days after such written notification, Contractor shall prepare the Recovery Schedule and submit it to Owner for its review. Contractor shall prepare the Recovery Schedule even if Contractor disputes Owner's determination of the need for a Recovery Schedule. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline CPM Schedule. The Recovery Schedule shall be prepared in accordance with GECP and to a similar level of detail as the Baseline CPM Schedule, and shall have (unless otherwise specified in writing by Owner) a maximum duration of sixty (60) Days unless otherwise mutually agreed.

B. Within ten (10) Business Days after Contractor submits a Recovery Schedule, Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for review by Owner within three (3) Days after the conference. The revised Recovery Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of Subcontractors and Sub-subcontractors) for the duration specified in Section 5.5A, to regain compliance with the Baseline CPM Schedule.

C. Contractor shall perform the Work in accordance with the Recovery Schedule.

D. Five (5) Days prior to the expiration of the Recovery Schedule, Contractor shall meet with Owner at the Site to determine the effectiveness of the Recovery Schedule and to determine whether Contractor has regained compliance with the Baseline CPM Schedule. At the direction of Owner, one of the following shall happen:

1. If, in the opinion of Owner, Contractor is still behind schedule, Contractor shall be required to prepare another Recovery Schedule pursuant to Section 5.5A above, to take effect during the immediate subsequent pay period or other period selected in writing by Owner. Contractor shall prepare such Recovery Schedule even if Contractor disputes Owner's opinion.

2. If, in the opinion of Owner, Contractor has sufficiently regained compliance with the Baseline CPM Schedule, Contractor shall return to the use of the Baseline CPM Schedule.

E. In preparing and executing the Recovery Schedule, Contractor shall take all steps necessary to regain compliance with the Baseline CPM Schedule, including establishing additional shifts, hiring additional manpower, paying or authorizing overtime, providing additional equipment, and resequencing activities.

F. The cost of preparing the Recovery Schedule, and performing in accordance therewith, shall be for Contractor's account.

G. Owner's requirement, review and approval of the Recovery Schedule, or its decision not to request a Recovery Schedule, shall not relieve Contractor of any

obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Required Final Completion Date, or be construed to establish the reasonableness of the Recovery Schedule.

H. Failure of Contractor to comply with its obligation to provide a Recovery Schedule in accordance with this Section 5.5, after Owner provides Contractor with fifteen (15) Days prior written notice, shall be a Default.

5.6 **Acceleration and Acceleration Schedule**. Even if the Work is otherwise in compliance with the Baseline CPM Schedule, Owner may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, providing additional construction equipment or expediting Equipment; *provided, however*, (i) in no event shall Owner unilaterally order acceleration of the Work requiring Contractor to achieve Substantial Completion or Final Completion prior to the respective, original Guaranteed Substantial Completion Date or Required Final Completion Date and (ii) unless the Parties mutually agree by Change Order to adjustments to the Train 2 Project Schedule as a result of the acceleration, Contractor's obligation with respect to an acceleration directive from Owner shall be limited to using commercially reasonable efforts to accelerate the Train 2 Project Schedule. In the event of this directive, Owner's sole liability shall be to pay to Contractor any documented costs clearly and solely attributable to such acceleration. Such costs may include any incremental overhead or administrative costs, shift differential, premium, margin on incremental costs, increased costs resulting from any inefficiencies realized as a result of such acceleration, costs to expedite, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work (including additional indirect staff) on a full-time basis actually incurred over and above Contractor's normal rates, and overtime charges for equipment. Any adjustment to the Contract Price or any other Changed Criteria that the Parties agree in writing will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order. If Owner directs Contractor in writing to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by Owner, and shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Baseline CPM Schedule (the "***Acceleration Schedule***"). With respect to the Acceleration Schedule, Contractor shall do the following:

A. No later than the tenth (10^{th}) Business Day after such directive or such longer time as may be mutually agreed in writing by the Parties, Contractor shall prepare the Acceleration Schedule and submit it to Owner for its review. The Acceleration Schedule shall represent Contractor's best judgment as to how it shall satisfy Owner's acceleration directive. The Acceleration Schedule shall be prepared using GECP and to a similar level of detail as the Baseline CPM Schedule.

B. On the tenth (10^{th}) Business Day after such directive (or such longer time as may be mutually agreed in writing by the Parties), Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Acceleration Schedule. Any revisions to the Acceleration Schedule necessary as a result of this review shall be resubmitted for review by Owner no later than the tenth (10th) Day

after such meeting or such other date as may be agreed in writing by the Parties. The revised Acceleration Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing that portion of the Work that is affected by such acceleration, with the Baseline CPM Schedule governing the performance of all other Work.

C. Owner's review and approval of the Acceleration Schedule shall not constitute an independent evaluation or determination by Owner of the workability, feasibility, or reasonableness of that schedule.

ARTICLE 6
CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 **Change Orders Requested by Owner**. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

A. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within five (5) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Contract Price, the Train 2 Project Schedule, the Design Basis, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees, or any other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). With Contractor's response, Contractor shall provide a written statement to Owner that sets forth the effects, if any, that the proposed Change Order would have on the contract price, project schedule or other obligation or liability of Contractor under the Train 1 EPC Agreement, and Contractor shall provide a copy of such notice to FLIQ1 pursuant to the Train 1 EPC Agreement. If it is not possible for Contractor to provide all of the information required under this Section 6.1A to be submitted with such written statement within such five (5) Business Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such five (5) Business Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed Change Order from Owner. The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.6B.

1. In the event that Owner requests Contractor to prepare a response to a proposed Change Order pursuant to Section 6.1A, and Contractor believes that the incremental cost to be incurred by Contractor in order to prepare such response will exceed Eight Thousand U.S. Dollars (U.S.$8,000), then Contractor shall give Owner written notice within five (5) Business Days after receipt of Owner's request, and prior to incurring costs with respect to such response, identifying such threshold may be exceeded and providing Owner with an estimate of the incremental cost to prepare such response to the proposed Change Order. Owner shall then have the right to request Contractor

to proceed with the response or not. If Owner requests Contractor to proceed and Owner ultimately decides not to enter into a Change Order based upon this response, then Owner's payment responsibility shall be for Contractor's incremental costs above the foregoing threshold amount incurred in providing the response to the proposed Change Order (but not to exceed Contractor's estimated cost for the Change Order response unless prior approval is given by Owner in writing).

B. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement; *provided that*, even if the Parties agree upon the Changed Criteria, if Contractor has timely notified Owner pursuant to Section 6.1A above that the proposed Change Order would affect Contractor's obligations or liabilities under the Train 1 EPC Agreement, then Owner and Contractor may not execute the contemplated Change Order unless and until either (i) the proposed Change Order is modified such that no obligations or liabilities of Contractor under the Train 1 EPC Agreement are affected or (ii) FLIQ1 ratifies the proposed Change Order by executing a corresponding change order pursuant to the Train 1 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 1 EPC Agreement that result from the Change Order contemplated under this Agreement.

C. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1A, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order on a time and materials basis using the rates as set forth in Schedule D-4, or if not specified therein, at rates not to exceed then-current market rates with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible. If the Parties cannot agree on the effect of such unilateral Change Order by the date of Final Completion, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) and

shall diligently perform the changed Work or other obligations required in such unilateral Change Order.

1. Notwithstanding anything to the contrary in Section 6.1C or 6.2D, Owner shall not have the right to issue a unilateral Change Order pursuant to such Section 6.1C or 6.2D if Contractor has notified Owner pursuant to Section 6.1A that the proposed Change Order will affect Contractor's obligations or liabilities under the Train 1 EPC Agreement unless and until (i) the unilateral Change Order is modified such that no obligations or liabilities of Contractor under the Train 1 EPC Agreement are affected or (ii) FLIQ1 ratifies the proposed Change Order by executing a corresponding unilateral change Order pursuant to the Train 1 EPC Agreement implementing the agreed-upon effects of the obligations and liabilities to the Train 1 EPC Agreement that result from the unilateral Change Order issued under this Agreement.

6.2 **Change Orders Requested by Contractor**.

A. Contractor shall only have the right to request a Change Order in the event of any of the following occurrences:

1. Acts or omissions of Owner, or of any Owner Indemnified Parties or any other Person acting on behalf of or under the control of Owner, that constitute a breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to delays (as that term is defined Section 6.10) caused by any Owner Indemnified Parties or any Person acting on behalf or under the control of Owner, compensation and a time extension to the Train 2 Project Schedule to the extent allowed under Section 6.9;

2. Force Majeure to the extent allowed under Section 6.8A;

3. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued;

4. To the extent Contractor has complied with Section 3.17, discovery of pre-existing Hazardous Materials at the Site that adversely affect Contractor's cost (which costs shall be adequately documented and supported by Contractor) of the performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such discovery of pre-existing Hazardous Materials, compensation and a time extension to the Train 2 Project Schedule to the extent allowed under Section 6.9;

5. To the extent expressly permitted under Section 2.5B.2, 2.5B.3, 3.3C.5, 3.24A, 4.8A(i), 4.8B(i), 4.8C, 4.8D, 4.8E.1, 5.2C, 6.15, 7.10B, 8.2A.3,

8.2A.4, 11.1D.2, 12.2A, 16.6, 21.22D, or 21.22E, or Section 4.13.8, 14.2, 14.6 or 14.22 of Schedule A-1, Section 6.1 of Schedule A-2, Section 5.1 of Schedule A-3, or Section 1.P or 2.D of Attachment O;

6. Purchase of operating spare parts in accordance with Section 3.4C;

7. Suspension in Work ordered by Owner pursuant to Section 16.3 or a suspension in Work allowed to Contractor pursuant to Section 16.4;

8. Changes in Law that materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.10) caused by such Changes in Law, compensation and a time extension to the Train 1 Project Schedule to the extent allowed under Section 6.9; or

9. To the extent expressly permitted under Attachment DD.

B. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.6, notify Owner in writing and issue to Owner, at Contractor's expense, a request for a proposed Change Order in the form attached hereto as Schedule D-3, a detailed explanation of the proposed change and Contractor's reasons for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.6. Any adjustments to the Contract Price shall be requested on a fixed price separated basis according to Article 7 (or such other pricing basis as the Parties may mutually agree in writing) and shall be derived from the rates set forth in Schedule D-4 to the extent applicable or, if not stated therein, derived from rates not to exceed then-current market rates.

C. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

D. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1C are applicable.

E. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required

under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, as modified by any previously agreed Change Orders, and with the terms of any unilateral Change Orders.

6.3 **Change Orders Requested by FLIQ1 Under the Train 1 EPC Agreement**. Contractor shall provide Owner with written notice as to whether any change orders proposed by FLIQ1 under the Train 1 EPC Agreement will affect Contractor's obligations or liabilities under this Agreement. Such notice shall be provided by Contractor within five (5) Business Days after Contractor's receipt of the proposed change order from FLIQ1, *provided that*, if it is not possible for Contractor, using GECP, to determine whether the proposed change order will affect Contractor's obligations or liabilities under this Agreement within such five (5) Business Day period, Contractor shall provide Owner with written notice of the potential of such an impact within such 5-Business Day period along with as a written explanation of the reason that additional time is required. Contractor shall then exercise reasonable diligence to provide information on the effects to Contractor's obligations or liabilities under this Agreement as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed change order from FLIQ1. Upon receipt of such written notice, Owner shall promptly coordinate with FLIQ1 and Contractor to discuss the impacts to Contractor's obligations and responsibilities under this Agreement and the Expansion Facility overall. Thereafter, Owner will respond to Contractor by either (i) ratifying FLIQ1's proposed change order (as such proposal may be modified as a result of the discussions between Contractor, Owner and FLIQ1) by executing a corresponding Change Order (whether mutual or unilateral) pursuant to this Agreement or (ii) rejecting the effects of FLIQ1's proposed action on the Train 2 Project. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 6.3 that a FLIQ1 proposed change order will affect the liabilities and obligations of Contractor under this Agreement, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement resulting from a change order proposed and/or implemented by FLIQ1 under the Train 1 EPC Agreement.

6.4 **Contract Price Adjustment; Contractor Documentation**. If a Change Order is executed on a time and materials basis pursuant to Section 6.1C or 6.2D, then interim payments shall be made to Contractor in accordance with the terms of Section 6.1C for such unilateral Change Order Work; *provided that* the Contract Price shall not be adjusted unless and until the a mutual Change Order is executed by the Parties that supersedes the unilateral Change Order (and such mutual Change Order adjusts the Contract Price) or the dispute underlying the unilateral Change Order is resolved in accordance with Article 18 requiring an adjustment to the Contract Price. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets, invoices and receipts. With respect to all unilateral and mutual Change Orders, as well as any requests for Change Orders by Contractor pursuant to Section 6.2, Contractor shall maintain and present all applicable Books and Records and other documentation related to such actual or requested Change Orders in a manner that would allow

such documentation (including cost and schedule-related information) to be segregated into documentation relating to Train 1-Specific Work, Common Development Work and Train 2-Specific Work.

6.5 **Change Orders Act as Accord and Satisfaction**. Change Orders agreed pursuant to Section 6.1B or 6.2C by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1C or 6.2D on a time and materials basis and which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a superseding and mutually agreed upon Change Order as provided in Section 6.1B or 6.2C, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for all direct and indirect impacts of such change. Accordingly, unless otherwise expressly and conspicuously stated in such Change Order, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work); *provided, however*, Contractor may only expressly reserve its right under a Change Order to make such claim or demand or take any such action or proceeding against Owner if Contractor is not able in good faith to determine, using GECP, all of the effects of the change at the time of executing such Change Order and, *provided further*, subject to Section 6.5A, that if Contractor so expressly reserves its rights in accordance with this Section 6.5, Contractor shall make such claim or demand or take any such action or proceeding against Owner within a reasonable time but in no event later than three (3) months after the date of such Change Order (unless the Parties mutually agree to extend such time period in writing), and if Contractor fails to bring such claim or demand within such three (3) month period (or such longer time period as the Parties mutually agree in writing), Contractor is deemed to have forever waived and released such claim or demand.

A. The foregoing three (3) month time period set forth in Section 6.5 for Contractor bringing forth to Owner a previously reserved claim or demand shall not apply for Change Orders requested under Sections 6.2A.2, 6.2A.3, 6.2A.8, 8.2A.3, or 8.2A.4 and, in such circumstances, Contractor shall bring such previously reserved claim or demand as soon as reasonably possible using GECP but no later than prior to Substantial Completion.

6.6 **Timing Requirements for Notifications and Change Order Requests by Contractor**. Should Contractor desire to seek an adjustment to the Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Milestone Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

A. notify Owner in writing of the existence of such circumstance within twenty (20) Days after the date that Contractor's Key Personnel knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* if such circumstance is an emergency, oral notice shall be given immediately, followed with written notice within three (3) Days after the date such oral notice is provided. In such notice (written or oral), Contractor shall state in detail all known and presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the good faith estimate of cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the applicable CPM Schedule), any other details or information that are expressly required under this Agreement and any information and documents relevant to such claim or circumstance. Contractor shall only be required to comply with the notice requirements of this Section 6.6A once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

B. submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner written notice but in no event later than seven (7) Days after the completion of each such circumstance, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Schedule D-4, detailed estimates and cost records, daily time sheets and a graphic demonstration using the applicable CPM Schedule, showing Contractor's entitlement to a time extension to the Train 2 Project Schedule pursuant to the terms of this Agreement, which shall be provided in hard copy and in native electronic format in accordance with Section 5.4E); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria. If it is not possible for Contractor to provide all of the information required under this Section 6.6B to be submitted with such proposed Change Order within such seven (7) Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such seven (7) Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's submission of such proposed Change Order.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.6, and agree that such requirements are an express condition precedent necessary to any right for an adjustment in Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement.

6.7 **Adjustment Only Through Change Order**. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or Required Final Completion Date, Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6. Contractor shall not perform any change in the Work unless and until such change is authorized pursuant to this Article 6, and should Contractor perform or claim to perform any changes in the Work prior to authorization by Change Order, all such costs and expenses incurred by Contractor shall be for Contractor's account. No course of conduct or dealings between the Parties, nor express or implied acceptance of additions, deletions, suspensions or modifications to this Agreement, including any Work, and no claim that Owner has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim for an adjustment in the Contract Price, the Train 2 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, the Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor under this Agreement.

6.8 **Force Majeure**.

A. ***Contractor Relief***.

1. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an extension to the Guaranteed Substantial Completion Date or the Required Final Completion Date if such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11. Subject to Section 6.8A.2, the Parties agree that Contractor's sole remedy for such delay shall be an adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date, as applicable, pursuant to a Change Order. Any adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date shall be recorded in a Change Order.

2. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an adjustment to the Contract Price as provided in (a) or (b) below if Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11 and meets the requirements of either (a) or (b) below. Any adjustment to the Contract Price shall be recorded in a Change Order.

(a) With respect to any one or more hurricanes or named tropical storms in (or forecasted by the National Weather Service to make landfall in) the Texas Gulf Coast region that constitute a Force Majeure event, Contractor shall be entitled to an adjustment to the Contract Price for reasonable incremental costs (including for field indirect personnel and field overhead) necessarily incurred by Contractor (i) to prepare the Work on the Site to safely weather such hurricane or named tropical storm, (ii) during demobilization of Contractor's personnel and applicable construction equipment from the Site to a safe off-Site location prior to the Force Majeure and (iii) during remobilization of Contractor's personnel and applicable construction equipment from the off-Site location to the Site after the Force Majeure; *provided that* Contractor shall bear at its own expense the first Three Hundred Seventy-Five Thousand U.S. Dollars (US$375,000) of such costs with respect to any one hurricane or named tropical storm, *provided further that* the aggregate amount which Contractor shall be required to bear with respect to the above costs is One Million U.S. Dollars (US$1,000,000).

(b) In the event that any one or more Qualified Force Majeure Events, in the aggregate, cause Contractor to achieve Substantial Completion more than thirty (30) Days after the Guaranteed Substantial Completion Date, Contractor shall be entitled to an adjustment to the Contract Price for reasonable costs necessarily incurred by Contractor for further delay occurring after the expiration of such thirty (30) Day aggregate period as a result of Qualified Force Majeure Events. A "***Qualified Force Majeure Event***" is a single Force Majeure event that otherwise meets the requirements of Section 6.8A.1 and causes Contractor to achieve the Substantial Completion five (5) or more Days after the Guaranteed Substantial Completion Date.

B. ***Owner Relief***. Subject to Section 6.8C, Owner's obligations under this Agreement shall be suspended to the extent that performance of such obligations is delayed by Force Majeure.

C. ***Payment Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement shall be excused by reason of Force Majeure.

6.9 **Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law**. Should (i) Owner, or any Owner Indemnified Party or any other Person acting on behalf or under the control of Owner, subject to Section 21.22, delay the commencement, prosecution or completion of the Work, and to the extent such delay is not attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement or such delay is caused by Owner's ordering a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1), or (ii) the commencement, prosecution or completion of the Work be delayed as a result of (1) subsurface conditions for which Contractor is entitled to adjustments to the Contract Price and/or Train 2 Project Schedule, as applicable, under Section

2.5B.2, (2) Contractor's discovery of pre-existing Hazardous Materials on the Site for which Contractor is entitled to relief under Section 6.2A.4, (3) Changes in Law for which Contractor is entitled to relief under Section 6.2A.8, (4) Owner's interference with the Work for which Contractor is entitled to relief under Section 3.24A, (5) Owner's failure to provide natural gas feed in the amounts and at the times required by Section 4.8A(i) (unless due to Force Majeure), (6) Owner's failure to provide electricity in the amounts and at the times required by Section 4.8B(i) (unless due to Force Majeure), (7) Owner's failure to provide propane or ethylene in the amounts and at the times required by Section 4.8C (unless due to Force Majeure), (8) Owner's failure to provide LNG evacuation in accordance with Section 4.8D and 11.1C (unless due to Force Majeure) for which Contractor is entitled to relief under Section 4.8D, (9) Owner's failure to provide LNG Tanker loading opportunities as further set forth in Section 4.8E.1 (unless due to Force Majeure) for which Contractor is entitled to relief under such Section 4.8E.1, (10) Owner's failure to deliver the RLFC LNG Tanker for which Contractor is entitled to relief under Section 11.1D.2 or (11) a suspension of the Work for which Contractor is entitled to relief under Section 6.2A.7, then Contractor shall, with respect to any of the above, be entitled to request a Change Order for an adjustment in the Contract Price and an extension to the Train 2 Project Schedule if (w) such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule, (x) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, (y) Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and (z) Contractor complies with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements of Section 6.11. Any adjustment to the Contract Price shall be for reasonable, additional costs incurred by Contractor for such delay meeting the requirements of this Section 6.9, and any adjustments to the Contract Price or the Guaranteed Substantial Completion Date or Required Final Completion Date shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.9, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.9 shall be included in the Change Order incorporating such change in the Scope of Work.

6.10 **Delay**.

A. For the purposes of Sections 6.2A.1, 6.8 and 6.9, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

B. For the avoidance of doubt, the Parties recognize and agree that for the purposes of Section 6.8 and 6.9, a Work activity not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, Contractor is entitled to an extension to the Train 2 Project Schedule for those days of delay after which the non-critical path activity became a critical path activity, *provided that* such delay satisfies the other requirements under applicable Sections 6.8 and 6.9, including that such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date.

6.11 **Contractor Obligation to Mitigate Delay**. With respect to Sections 6.8 and 6.9, in no event shall Contractor be entitled to any adjustment to the Train 2 Project Schedule or adjustment to the Contract Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

6.12 **Separated Contract Price Adjustments in Change Orders**. Any adjustment by Change Order to the Contract Price which is made on a fixed price separated basis shall be separated pursuant to 34 Tex. Admin. Code Rule § 3.291(a)(13) to specify the applicable adjustments to the Tax Exempt Equipment Price, Taxable Equipment Price and Labor and Skills Price in accordance with Article 7. In addition, any such adjustment by Change Order to the Contract Price shall identify which component of the Contract Price that such adjustment is attributable to by adjusting the Common Contract Price Component and Train 2-Specific Contract Price Component as applicable. Change Orders shall also maintain an accounting of adjustments to the Common Development Work Compensation.

6.13 **Change Orders Affecting Common Development Work or the Common Development Work Compensation**. Notwithstanding anything to the contrary in this Article 6, no unilateral Change Order issued by Owner or mutual Change Order executed by the Parties, which relates to, impacts or modifies the Common Development Work (or any Changed Criteria relating to the Common Development Work) or the Common Development Work Compensation, shall be effective without FLIQ1 providing written approval of such unilateral or mutual Change Order; *provided that*, FLIQ1's approval requirement of any such Change Order (i) may be expressly waived in writing by FLIQ1 or (ii) is not applicable if either (1) Contractor has the right to suspend or has suspended the Common Development Work pursuant to the Train 1 EPC Agreement due to FLIQ2's failure to pay undisputed amounts owed thereunder, (2) the Train 1 EPC Agreement has been terminated or (3) Owner is exercising its rights under Section 6.14 below. Approval by FLIQ1 of the unilateral or mutual Change Order may come in the form of FLIQ1 executing a substantially identical unilateral or mutual change order under the Train 1 EPC Agreement. In addition, unless Owner and FLIQ1 agree otherwise in writing, any mutual Change Order under this Agreement and mutual change order executed under the Train 1 EPC Agreement in accordance with the foregoing which adjusts the Common Development Work Compensation shall have such adjustment split equally between Owner and FLIQ1, and the Contract Price and Common Contract Price Component hereunder shall be adjusted accordingly in such Change Order to account for such change in the Common Development Work Compensation; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) pursuant to Section 6.14, then the adjustment to the Common Development Work Compensation shall be fully borne by Owner under this Agreement (and the Common Contract Price Component shall be adjusted accordingly). Further, unless Owner and FLIQ1 agree otherwise in writing, any unilateral Change Order executed in accordance with the foregoing which relates to, impacts or modifies the Common Development Work shall have the cost of such unilateral Change Order split equally between Owner under this Agreement and FLIQ1 under the Train 1 EPC Agreement; *provided that*, if Owner has assumed the payment obligations of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) pursuant to Section 6.14, then Owner shall be fully responsible for the costs of such unilateral Change Order.

6.14 **Owner's Change Order Right to Undertake Full Scope of Common Development Work under this Agreement**. In the event Contractor, pursuant to Section 16.4 of the Train 1 EPC Agreement, submits a written notice to FLIQ1 for FLIQ1 to cure its failure to pay undisputed amounts due and owing under the Train 1 EPC Agreement, Contractor shall, simultaneously with its submission of the foregoing notice to FLIQ1, notify Owner in writing of the FLIQ1 notice. In addition, in the event Contractor receives a notice of termination from FLIQ1 of the Train 1 EPC Agreement (or termination of any Common Development Work thereunder) pursuant to Section 16.2 of the Train 1 EPC Agreement, or the Train 1 EPC Agreement is otherwise terminated by notice pursuant to its terms, Contractor shall, within five (5) Business Days, notify Owner in writing of such termination notice. Upon Owner's receipt of any of the foregoing written notices from Contractor, Owner shall have one hundred twenty (120) Days (or such other period of time as the Parties may agree upon in writing) to inform Contractor in writing whether Owner desires to assume the payment obligations, otherwise payable by FLIQ1 (assuming no termination of the Train 1 EPC Agreement), which are necessary to have the Common Development Work (that was being compensated under the Train 1 EPC Agreement) continue to be performed by Contractor; *provided that*, during such time period prior to Owner's response, Contractor shall have the right to suspend the Common Development Work to the extent allowed under the Train 1 EPC Agreement. In the event Owner elects to assume FLIQ1's payment obligations for the Common Development Work under this Agreement, Owner shall notify Contractor of such election in writing and submit with (or promptly after) such notice a request for a Change Order in accordance with Section 6.1 identifying what portion of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) that Owner desires Contractor to continue to perform under this Agreement, less any other portions of the Common Development Work Owner desires that Contractor not continue to perform. Thereafter, Owner and Contractor shall proceed in accordance with Section 6.1 with a view towards executing a mutual Change Order that establishes an adjustment to the Train 2 Project Schedule and Common Contract Price Component reflective of the scope of the Common Development Work that Owner desires Contractor to complete under this Agreement; *provided that*, in the essence of time (and to mitigate or avoid additional costs or delays associated with a suspension in the Common Development Work), Owner may issue a unilateral Change Order to Contractor so that the Common Development Work (that was being compensated under the Train 1 EPC Agreement) may continue without any suspension or so that any then-suspended Common Development Work resumes. If Contractor has not suspended the performance of the Common Development Work (that was being compensated under the Train 1 EPC Agreement) in accordance with the Train 1 EPC Agreement and Owner elects to have any such Common Development Work performed under this Agreement pursuant to this Section 6.14, then Contractor shall not be entitled to any adjustment to the Train 2 Project Schedule. If Contractor has suspended the performance of the Common Development Work in accordance with the Train 1 EPC Agreement and Owner elects to have the Common Development Work (that was being compensated under the Train 1 EPC Agreement) performed under this Agreement pursuant to this Section 6.14, then (in addition to any adjustment to the Common Contract Price Component as a result of having such Common Development Work continue to be performed under this Agreement) Contractor shall be entitled to an adjustment to the Train 2 Project Schedule and Common Contract Price Component to the extent allowed under Section 6.9 herein as a result of such suspension of such Common Development Work. For purposes of clarity, the Parties acknowledge that if Owner does not desire to reduce the scope of the Common Development Work, then the adjustment to the

Common Contract Price Component under the Change Order shall not exceed FLIQ1's unpaid share of the Common Development Work Compensation (except to the extent the Common Contract Price Component may be adjusted as a result of an adjustment to the Train 2 Project Schedule pursuant to the foregoing sentence). In the event that Owner elects to reduce the scope of the Common Development Work, Contractor shall use its best efforts to assist Owner in evaluating the effects of such reduced scope on the costs to perform the Work (including with respect to any change in quantities of materials or Equipment and the amount of labor, engineering or field in-directs) as well as the Baseline CPM Schedule, so that Owner can minimize the cost impact in assuming FLIQ1's payment obligations of performing the Common Development Work and shorten the Train 2 Project Schedule to reflect the decreased scope of the Common Development Work.

A. ***Elimination of Expansion Facility Dock from Common Development Work***. The Parties acknowledge that, in the event Owner desires to have the Common Development Work (that was being compensated under the Train 1 EPC Agreement) executed under this Agreement pursuant to Section 6.14, Owner, in its sole discretion, may wish to remove the Expansion Facility Dock from the scope of the Common Development Work (as part of its right to modify the scope of the Common Development Work pursuant to Section 6.14). In the event Owner so desires to remove the Expansion Facility Dock from the scope of the Common Development Work, the Parties acknowledge that the reduction in the Common Development Work Compensation for the removal of such scope will be determined by subtracting (i) the reasonable value of the Work performed for the Expansion Facility Dock (under both this Agreement and the Train 1 EPC Agreement, using the terms of this Agreement and the Train 1 EPC Agreement as the basis for such valuation) from (ii) the Expansion Facility Dock Price, and then reducing the Common Development Work Compensation by such difference. This reduced Common Development Work Compensation shall then be used as part of the basis to determine the adjustment to the Common Contract Price Component pursuant to Section 6.14.

B. ***Other Amendments To Address Termination of Train 1 EPC Agreement***. In the event that the Parties intend to enter into a Change Order under this Section 6.14 as a result of the termination of the Train 1 EPC Agreement, the Parties acknowledge that such Change Order will include appropriate modifications to this Agreement in instances where requirements, obligations or events herein are conditioned upon events occurring under the Train 1 EPC Agreement, such as, for example, the achievement of substantial completion (and the commencement of the Defect Correction Period) for Common Systems that were otherwise anticipated to achieve substantial completion under the Train 1 EPC Agreement, the transfer of Site security responsibilities for the Train 1 Expansion pursuant to Section 3.10 or the transfer of supervision from Contractor to Owner (or Owner's Affiliate) of certain operations and maintenance personnel at substantial completion of the Train 1 Expansion.

6.15 **Adjustment to Schedule Bonus Date**. If the commencement, prosecution or completion of the Work is delayed by a Qualified Force Majeure Event, then Contractor shall be entitled to an adjustment to the Schedule Bonus Date for each Day of a Qualified Force Majeure Event; *provided that* the Schedule Bonus Date may not be adjusted under this Agreement more

than thirty (30) Days in the aggregate. Any adjustment to the Schedule Bonus Date shall be recorded in a Change Order. Notwithstanding anything to the contrary in this Agreement, Contractor shall not be entitled to an adjustment to the Schedule Bonus Date for any other reason or cause whatsoever, including for Owner-caused delay.

ARTICLE 7
CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

7.1 **Contract Price**. Subject to the allocation of compensation for the Common Development Work as set forth in Section 7.2A, as compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement, Owner shall pay and Contractor shall accept Two Billion Five Hundred Eighty Five Million Eighty Nine Thousand Seven Hundred Forty-Two U.S. Dollars (U.S.$2,585,089,742) (the "***Contract Price***"). The Contract Price is subject to adjustment only by Change Order as provided in Article 6, and includes all Taxes, the Provisional Sums, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Contract Price does not include Texas state and applicable local sales and use taxes on Tax Exempt Equipment (which is subject to exemption as provided under Section 4.5A) and Taxable Equipment. The Contract Price is separated, in accordance with the definition of separated contract as defined in 34 Tex. Admin Code Rule § 3.291(a)(13), as follows:

A. Seven Hundred Thirty Nine Million Thirteen Thousand Five Hundred Fifty-Four U.S. Dollars (US$739,013,554) ("***Tax Exempt Equipment Price***") for Tax Exempt Equipment (subject to the allocation of compensation as set forth in Section 7.2A for the Tax Exempt Equipment included as part of the Common Development Work). Such Tax Exempt Equipment is listed in Attachment FF (which may be changed by Change Order in accordance with Section 4.5A.2). The Tax Exempt Equipment Price includes the cost of Tax Exempt Equipment, including markup, overhead, profit and freight, but excluding labor.

B. Three Hundred Ninety Four Million Four Hundred Eighty Five Thousand Three Hundred Ninety-Seven U.S. Dollars (US$394,485,397) (*"**Taxable Equipment Price**")* for all Equipment (including materials) to be permanently installed in the Train 2 Project (other than Tax Exempt Equipment) ("***Taxable Equipment***"), subject to the allocation of compensation as set forth in Section 7.2A for Taxable Equipment included as part of the Common Development Work. The Taxable Equipment Price includes the cost of Equipment (including markup, overhead, profit, and freight if the Vendor provides the freight, but excluding labor). Such Taxable Equipment is listed in Attachment FF.

C. One Billion Four Hundred Fifty One Million Five Hundred Ninety Thousand Seven Hundred Ninety U.S. Dollars (US$1,451,590,790) ("***Labor and Skills Price***") for all Work in this Agreement other than for Tax Exempt Equipment and Taxable Equipment (subject to the allocation of compensation as set forth in Section 7.2A for any portion of such Work that is included as part of the Common Development Work), which such Work includes all labor, engineering, design, services not subject to Texas state and applicable local sales and use taxes, installation, consumables, construction tools, freight, equipment rentals, overhead and all other items of whatever nature applicable to the

Work. Excluding only the Tax Exempt Equipment Price and the Taxable Equipment Price, the Labor and Skills Price shall include all costs, charges and expenses of whatever nature applicable to the Work, including Taxes on all Work and Texas state and applicable local sales and use taxes on all Work other than on Tax Exempt Equipment and Taxable Equipment.

The Contract Price also includes Ninety Four Million Six Hundred Forty Two Thousand Four Hundred Sixty-Six U.S. Dollars (US$94,642,466) ("***Aggregate Provisional Sum***") for Provisional Sum Scope Items as further identified in Attachment DD. The Aggregate Provisional Sum is the aggregate of the Provisional Sums for each Provisional Sum Scope Item, as shown in Attachment DD. As shown in Attachment DD, each Provisional Sum for a Provisional Sum Scope Item is separated into (i) a price for Tax Exempt Equipment (ii) a price for Taxable Equipment, and (iii) a price for all other Work that is not included in the pricing for Tax Exempt Equipment or Taxable Equipment. (For the avoidance of doubt, those price separations identified in Attachment DD for the Provisional Sum Scope Items are incorporated into the separated price components identified in Sections 7.1A, B and C above.) In addition, each Provisional Sum for a Provisional Sum Scope Item is also itemized between Train 2-Specific Work and Common Development Work. The Contract Price will be subject to adjustment by Change Order with respect to the Aggregate Provisional Sum as set forth in Attachment DD. Such Change Order will also adjust the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 2-Specific Contract Price Component, Common Contract Price Component and Common Development Work Compensation as appropriate.

7.2 **Contract Price Components.**

A. ***Common Contract Price Component***. The Parties acknowledge that the Train 1 Expansion is being developed by Contractor under the Train 1 EPC Agreement concurrently with the development of the Train 2 Expansion. As a result of this, the Common Development Work, which is a scope of the Work hereunder that is also required as part of the work under the Train 1 EPC Agreement, is being jointly funded by Owner (under this Agreement) and FLIQ1 (under the Train 1 EPC Agreement). The Parties agree that the compensation paid to Contractor for the performance of the Common Development Work is being split equally among Owner and FLIQ1 and that any adjustments to such compensation shall also be shared equally by Owner and FLIQ1 unless otherwise agreed by Owner and FLIQ1. The total compensation to be paid to Contractor for the Common Development Work is Two Billion Two Hundred Sixty One Million One Hundred Sixteen Thousand Seventy U.S. Dollars (U.S.$2,261,116,070) (the "***Common Development Work Compensation***"). The portion of the Contract Price allocated to Owner under this Agreement for such Common Development Work shall be one-half of the Common Development Work Compensation or One Billion One Hundred Thirty Million Five Hundred Fifty Eight Thousand Thirty-Five U.S. Dollars (U.S.$1,130,558,035) (the "***Common Contract Price Component***"), and Owner, subject to Section 6.14, shall only be obligated to pay Contractor for the Common Contract Price Component under this Agreement for the full performance of the Common Development Work (notwithstanding that the full scope of the Common Development Work is set forth in this Agreement). In accordance with Section 6.13 (and subject to the exceptions set forth therein), the Common Development Work Compensation shall only be adjusted by

written agreement of Contractor, Owner and FLIQ1 (which such written agreement can be memorialized via a Change Order under this Agreement executed by Owner and Contractor and a corresponding change order under the Train 1 EPC Agreement executed by FLIQ1 and Contractor). The Common Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Common Development Work).

B. ***Train 2-Specific Contract Price Component***. The portion of the Contract Price allocated to the Train 2-Specific Work is One Billion Four Hundred Fifty Four Million Five Hundred Thirty One Thousand Seven Hundred Six U.S. Dollars (U.S.$1,454,531,706) (the "***Train 2-Specific Contract Price Component***"). The Train 2-Specific Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Train 2-Specific Work).

7.3 **Interim Payments**.

A. ***Payments***. Progress payments shall be made by Owner to Contractor in accordance with the Payment Milestone Schedule (as may be amended by Change Order pursuant to Section 6.1B or 6.2C) set forth in Schedule C-1, which allocates the payment of the Contract Price upon completion of Payment Milestones as set forth in Schedule C-1, *provided that* Contractor is otherwise in material compliance with the terms of this Agreement. Owner shall also make payments to Contractor for any unilateral Change Orders issued in accordance with Section 6.1C or 6.2D. Each payment shall be subject to Owner's right to withhold payments under this Agreement, including Section 5.4F, 7.6 and 13.2. Payments shall be made in U.S. Dollars to an account designated by Contractor. The Payment Milestone Schedule shall be amended only by Change Order pursuant to this Agreement.

B. ***Invoices for Train 2-Specific Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner an Invoice for all Train 2-Specific Work Payment Milestones completed during the prior Month, if any. The Train 2-Specific Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Train 2-Specific Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Train 2-Specific Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Train 2-Specific Work Payment Milestones and Train 2-Specific Work unilateral Change Order charges, other than the Invoice for final payment of Train 2-Specific Work under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Train 2-Specific Work unilateral Change Orders issued

pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Train 2-Specific Work.

C. ***Invoices for Common Development Work and Associated Unilateral Change Order Charges***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner and FLIQ1 an Invoice for all Common Development Work Payment Milestones completed during the prior Month, if any. The Common Development Work Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Common Development Work Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Common Development Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Common Development Work Payment Milestones and Common Development Work unilateral Change Order charges, other than the Invoice for final payment of Common Development Work under this Agreement, shall be in the form of Schedule I-2, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for Common Development Work unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner and FLIQ1 hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Common Development Work. For the avoidance of doubt, and notwithstanding anything to the contrary herein, Owner and Contractor agree and acknowledge that, notwithstanding that the Common Development Work will be jointly invoiced to Owner and FLIQ1, (i) Owner shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as set forth herein, (ii) FLIQ1 shall only be responsible for paying compensation to Contractor up to its Common Contract Price Component as defined in the Train 1 EPC Agreement, and (iii) Owner shall not be responsible for paying for FLIQ1's portion of the Common Development Work Compensation except as provided for in Section 6.14. FLIQ1 shall not have any obligations to pay any amounts under this Agreement.

D. ***Interim Lien and Claim Waivers***. Each set of Monthly Invoices received by Owner under this Agreement prior to Final Completion shall be accompanied by (i) fully executed Interim Lien and Claim Waivers from Contractor in the forms of Schedules K-1 and K-2 for all Work performed through the date for which payment is requested, (ii) fully executed Interim Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Interim Lien and Claim Waivers for all Major Sub-subcontractors requested in substantially the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested. Interim Lien and Claim Waivers, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Interim Lien and Claim Waivers only if they have performed Work not covered

by a previous Interim Lien and Claim Waiver. Submission of all Interim Lien and Claim Waivers is a condition precedent to payment of any Invoice.

E. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement, including Retainage as set forth in Section 7.13), subject to Owner's several liability with respect to Invoices for Common Development Work, shall be due and payable thirty (30) Days after it, and all documentation required under this Agreement, is received by Owner. If an Invoice is disputed by Owner, then payment shall be made for all undisputed amounts owed by Owner and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts shall be made as soon as such dispute is resolved.

F. ***Maximum Cumulative Payments***. The Parties have agreed upon and set forth in Schedule C-2 a schedule of the maximum cumulative amounts ("***Maximum Cumulative Payment Schedule***") that Contractor is allowed to invoice Owner at any one time during the Train 2 Project for the completion of the Work, regardless of whether Contractor has completed Work (via completion of Payment Milestones) that represents amounts greater than the Maximum Cumulative Payment Schedule. The Maximum Cumulative Payment Schedule sets the maximum cap on invoiced amounts, but does not set a minimum amount that Contractor may invoice Owner, as Sections 7.3A and 7.3B specify the procedure for determining the amount of each Invoice. The Maximum Cumulative Payment Schedule shall be adjusted only by Change Order executed by both Parties.

7.4 **Final Completion and Final Payment for Train 2-Specific Work and Common Development Work**. Upon Final Completion, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit fully executed final Invoices for the Train 2-Specific Work and Common Development Work in the forms attached hereto as Schedules I-3 and I-4, respectively, along with (i) a statement summarizing and reconciling all previous Train 2-Specific and Common Development Work Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Equipment, and any other indebtedness connected with the Work have been paid, including Texas state and applicable local sales and use taxes which Contractor is required under this Agreement to pay, (iii) fully executed Final Lien and Claim Waivers from Contractor in the forms of Schedules K-5 and K-6, (iv) fully executed Final Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-7 and K-8, (v) if requested by Owner, fully executed Final Lien and Claim Waivers from each Major Sub-subcontractor in substantially the forms set forth in Schedules K-7 and K-8, and (vi) to the extent not previously provided to Owner, Retainage Letters of Credit that, in the aggregate, equal the full amount of Retainage to be withheld by Owner under this Agreement. No later than thirty (30) Days after receipt by Owner of such final Invoices and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this

Agreement, pay Contractor the balance of the Contract Price (including the Retainage, if Retainage Letters of Credit in the full amount of Retainage have been provided by Contractor).

7.5 **Payments Not Acceptance of Work**. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.6 **Payments Withheld**. In addition to disputed amounts set forth in an Invoice, Owner may, in addition to any other rights under this Agreement, at law or in equity and upon fifteen (15) Days prior written notice to Contractor, withhold payment on an Invoice or a portion thereof, or collect on the Letter of Credit, in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to:

A. Defective Work not remedied in accordance with this Agreement;

B. stop payment notices, liens or other encumbrances on all or a portion of the Site, the Work or the Facility, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, *provided that* Owner has made payment to Contractor of all undisputed amounts due to Contractor in accordance with the terms of this Agreement;

C. any breach by Contractor of any material provision of this Agreement;

D. the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards;

E. amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information;

F. Delay Liquidated Damages which Contractor owes under the terms of this Agreement;

G. failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts, excluding the right of Contractor to withhold payments to Subcontractors as provided under the terms of the applicable Subcontract;

H. damage or loss to the Existing Facility caused by Contractor or any of its Subcontractors or Sub-subcontractors, subject to the limitations of Contractor's liability for such damage or loss as set forth in Section 20.2; or

I. any other costs or liabilities which Owner has incurred for which Contractor is responsible, unless otherwise covered by insurance or bond in a form reasonably satisfactory to Owner, *provided that* Contractor is in compliance with its indemnity, hold harmless and defense obligations under this Agreement.

Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against

Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee or bond reasonably satisfactory to Owner in the amount of the withheld payment.

7.7 **Interest on Late Payments**. Any amounts due but not paid hereunder shall bear interest at the lesser of (i) an annual rate equal to the prime rate published by the Wall Street Journal plus two percent (2%), or (ii) the maximum rate permitted under Applicable Law.

7.8 **Work Breakdown Structure**. Within sixty (60) Days after the NTP, Contractor shall deliver to Owner for Owner's written approval a detailed breakdown of the Work by activity, with each such activity having a written description and hierarchal coding ("***Work Breakdown Structure***"). The Work Breakdown Structure shall be consistent with the Baseline CPM Schedule and the form of Work Breakdown Structure in Schedule C-3. After approval by Owner of such Work Breakdown Structure, Contractor shall have the right during the course of the Train 2 Project and upon Owner's written approval, to modify the Work Breakdown Structure, *provided tha*t at all times it remains consistent with the Baseline CPM Schedule. Contractor shall promptly provide Owner with copies of any revised Work Breakdown Structure.

7.9 **Payment Error**. If an error is made in connection with a payment, and such payment is an overpayment, the overpayment shall be reconciled with the next monthly Invoice, or if no further invoices are planned or the amount of such Invoices are not estimated to be of an amount to properly reconcile the error, then the Party receiving such payment in error shall promptly refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Owner under this Agreement, (i) if Owner discovers that a Payment Milestone was not in fact completed, or that Work associated with an Invoice contained Defective Work, then Owner may, at its sole discretion and upon prior written notice to Contractor, offset the amount of the payment against future payments or collect on the Letter of Credit in the amount of the payment until such Payment Milestone or correction of the Defective Work is achieved or (ii) if Owner discovers that any amounts paid by it to Contractor in a preceding Month was incorrect or lacked sufficient or accurate supporting information, then Owner may, at its sole discretion but only after giving prior written notice to Contractor, offset such amounts against future payments or collect on the Letter of Credit for such amounts until sufficient and accurate supporting information is provided pursuant to Section 7.3.

7.10 **Currency**.

A. Unless otherwise specified, all amounts contained herein are in and shall be paid in U.S. Dollars.

B. Foreign Exchange Parity.

As of the Effective Date, the Contract Price assumes the following foreign (non-U.S. Dollar) currency at the listed value and exchange rate to the U.S. Dollar:

FOREIGN CURRENCY	VALUE IN FOREIGN CURRENCY	EXCHANGE RATE
EURO	€ 100,950,865	1.301 USD TO EURO

On the date Owner issues NTP, the Contract Price shall be subject to an upward or downward adjustment by Change Order to account for currency fluctuations. This adjustment will be determined by multiplying (a) the difference of the exchange rate as quoted by the Wall Street Journal on the following website:

http://online.wsj.com/public/page/news-currency-currencies-trading.html

for the closing exchange rate on the date Owner issues NTP (the "***NTP Exchange Rate***") and the above listed exchange rate ("***Contract Exchange Rate***") by (b) the corresponding value in foreign currency listed above ("***Value of Foreign Currency***").

For clarity, the Contract Price adjustment shall be determined by the following formula:

$$Adjustment = [Value\ of\ Foreign\ Currency\ x\ [NTP\ Exchange\ Rate - Contract\ Exchange\ Rate]]$$

The Change Order implementing the foregoing adjustment shall also further itemize the adjustment, as applicable, into the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 2-Specific Contract Price Component, Common Contract Price Component and Common Development Work Compensation.

7.11 **Conditions Precedent to Payment**. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner, and is maintaining (i) the Parent Guarantee and the Letters of Credit in accordance with Section 21.16 and Article 9, and (ii) the insurance policies in accordance with Article 9.

7.12 **Payments to Subcontractors**. Contractor agrees and acknowledges that, if FLIQ1 withholds, offsets or otherwise does not make a payment to Contractor under the Train 1 EPC Agreement, Contractor shall not utilize payments made by Owner under this Agreement to compensate Subcontractors for work performed under the Train 1 EPC Agreement; *provided that* payments made under this Agreement to Contractor can be utilized to pay Subcontractors to the extent such payment arises from Owner's portion of the Common Development Work Compensation.

7.13 **Retainage and Retention Letter of Credit**.

A. ***Retainage***. Owner shall withhold from each Invoice submitted on or after NTP from Contractor an amount equal to two and one-half percent (2.5%) of the amount of each Train 2-Specific Invoice and one and one-quarter percent (1.25%) of the amount of each Common Development Work Invoice (collectively, the "***Retainage***"); *provided that*, if Owner takes over the full scope and payment of the Common Development Work in accordance with Section 6.14, Owner may withhold two-and-one-half percent (2.5%)

from each Common Development Work Invoice as part of the Retainage. For amounts paid by Owner to Contractor prior to NTP that are credited against the Contract Price, Retainage (in accordance with the ratios set forth above) for such amounts shall be withheld from the first payments made on or after NTP (in addition to any other Retainage allowed to be withheld from such first payments on or after NTP). Subject to Owner's rights under the Agreement, Retainage withheld from Invoice payments shall be released by Owner to Contractor as follows: (i) upon the first anniversary of Substantial Completion, Owner shall release a portion of the Retainage while continuing to withhold Retainage equal to the sum of (1) one and one-half percent (1.5%) of the original Contract Price plus (2) the estimated cost of correcting any outstanding Defects then-existing at such time; and (ii) upon the expiration of the Defect Correction Period, Owner shall release all remaining Retainage. Owner shall release Retainage based upon the foregoing sentence promptly after the passing of the event prompting such release but in any event within thirty (30) Days after such event and receipt from Contractor for an invoice for the release of such Retainage. Because Retention Letters of Credit may be substituted for Retainage as set forth in Sections 7.12B and 9.3, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in this Section A and reductions to the Retention Letters of Credit and releases of Retainage shall correspond in time, and in the amounts, as set forth above in this Section A.

B. ***Retention Letter of Credit as a Substitute for Retainage***. At their sole discretion, Contractor, CB&I or Zachry may elect to substitute a Retention Letter of Credit, pursuant to Section 9.3, in exchange for Owner releasing previously withheld Retainage, or for Owner to forego the withholding of Retainage from the payment of an Invoice, in the amount of such Retention Letter of Credit.

1. With respect to previously withheld Retainage, if Contractor, CB&I or Zachry make an election to provide Owner with a Retention Letter of Credit, Owner shall release previously withheld Retainage promptly to the applicable party in the amount of the Retention Letter of Credit provided, after receipt of such Retention Letter of Credit and an invoice for the Retainage release (but in any event within thirty (30) Days after receipt of such Retention Letter of Credit and invoice).

2. With respect to Retainage to be withheld from a prospective Invoice payment, if Contractor, CB&I or Zachry provide Owner with a Retention Letter of Credit seven (7) or more Days prior to the payment due date of such Invoice (and such Retention Letter of Credit has an effective date no later than Owner's Invoice payment due date), Owner, unless restricted from doing so by its financing documents with its Lenders, shall not withhold that portion of the Retainage (in the amount of such Retention Letter of Credit) from the Invoice payment. In the event Contractor, CB&I or Zachry provide a Retention Letter of Credit as set forth in the 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 7.13B (including any Retainage not withheld pursuant to Section 7.13B.2) shall not exceed the aggregate amount of Retention Letters of Credit which have been provided to Owner by Contractor, CB&I or Zachry.

7.14 ***Payments by FLIQ CF***. Notwithstanding anything to the contrary set forth herein and without limiting the generality of Section 8.1C, FLIQ CF has the right, but not the obligation, to pay to Contractor, and upon such payment Contractor shall accept, on behalf of Owner, all or any portion of the Contract Price as the same shall become due in accordance with this Agreement.

ARTICLE 8
TITLE AND RISK OF LOSS

8.1 **Title**.

A. ***Clear Title***. Subject to Contractor's receipt of payment of undisputed amounts when due under this Agreement, Contractor warrants and guarantees to Owner and FLIQ CF that Owner and FLIQ CF, as applicable, will receive good and legal title to and ownership of the Work and the Train 2 Expansion shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner and FLIQ CF, as applicable.

B. ***Title to Work***. Title to all or any portion of the Work (other than Work Product) shall pass to either Owner or FLIQ CF (as determined pursuant to Section 8.1C) upon the earlier of (i) payment therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Train 2 Expansion. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right of Owner under the Agreement.

C. ***Title Passage to FLIQ CF***. Title to the Train 2-Specific Work shall pass from Contractor to Owner in accordance with the timing set forth in Section 8.1B. Title to the Common Development Work shall pass from Contractor directly to FLIQ CF in accordance with the timing set forth in Section 8.1B. Notwithstanding passage of title in accordance with the foregoing, the Parties and FLIQ CF acknowledge that they will be signatories to an Equipment Sharing Agreement and that title to items of Equipment may pass among Owner, FLIQ CF and the other signatories to such Equipment Sharing Agreement in accordance with the terms therein. FLIQ CF shall be a signatory to this Agreement solely for purposes of taking title to the Common Development Work in accordance with this Section 8.1C and those other purposes expressly stated in the signature block for FLIQ CF included in this Agreement and shall not assume any other obligations under this Agreement to Contractor (including any obligation to pay any portion of the Contract Price, notwithstanding its right to make payments under Section 7.14) as a result of its execution of the Agreement and receipt of title of the Work, and Contractor waives any right to seek any compensation from FLIQ CF with respect to the Work or otherwise under this Agreement, at law or in equity.

8.2 **Risk of Loss**.

A. ***Prior to Substantial Completion***. Notwithstanding passage of title as provided in Section 8.1 of this Agreement, and except as otherwise stated in Section 8.2A.1, Contractor shall bear the risk of physical loss and damage to the Train 2 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Expansion Facility) as follows: (i) with respect to the Train 2 Expansion (other than the Common Systems that achieve substantial completion under the Train 1 EPC Agreement), until Substantial Completion of the Train 2 Expansion is achieved under this Agreement and (ii) with respect to the Common Systems that achieve substantial completion under the Train 1 EPC Agreement, until substantial completion of such Common Systems under the Train 1 EPC Agreement; *provided that*, for purposes of clarity, if the Train 1 EPC Agreement is terminated in accordance with the rights set forth therein prior to the achievement of substantial completion under the Train 1 EPC Agreement, then Contractor shall bear the risk of loss of all Common Systems (including those Common Systems that Contractor was to bear the risk of loss of only until achievement of such substantial completion under the Train 1 EPC Agreement) until Substantial Completion is achieved under this Agreement.

1. Notwithstanding Section 8.2A above, Contractor shall not be liable to Owner for any such physical loss or damage if and to the extent: (a) such physical loss or damage is not insured under the builder's risk policy or marine cargo insurance policy required to be provided by Owner under Sections 2.A.1 and 2.A.2 of Attachment O to this Agreement because of Owner's failure to maintain such policies in full force and effect at all times required under this Agreement, (b) Owner receives payment from the insurance company or companies under such policies for such physical loss or damage, (c) such physical loss or damage is not insured under the builder's risk policy because of an exclusion specified in such policy and Contractor is not otherwise liable to Owner pursuant to Section 8.2A.2, (d) the value of such physical loss or damage exceeds the named windstorm, flood or earthquake sublimit(s) as a result of damage or loss caused by a named windstorm, flood or earthquake event, (e) the value of such physical loss or damage exceeds the monetary policy limits (including any sublimits or aggregate limits) of the builder's risk policy or (f) the physical loss or damage is caused by (1) ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste, (2) nuclear weapons material, (3) war, invasion, act of foreign enemy hostilities or warlike operations, civil war, rebellion, revolution or insurrection, (4) act of any person in connection with activities directed towards the overthrow by force of the government, (5) permanent or temporary dispossession resulting from confiscation, nationalization, commandeering or requisition by any lawfully constituted authority or (6) an act of terrorism (as defined in the builder's risk policy); *provided, however*, with respect to deductibles under the builder's risks and marine cargo insurance, Contractor shall remain liable to the Owner for the policy deductibles, regardless of fault, but not to exceed One Million Dollars (U.S.$1,000,000) per occurrence for such deductibles as specified in Section 2.B of Attachment O; *provided further, however*, with

respect to the foregoing proviso, if Contractor is also liable to FLIQ1 for the builder's risks or marine cargo insurance policy deductibles under Section 8.2A.1 of the Train 1 EPC Agreement for the same occurrence, then Contractor's total liability, in the aggregate, for such deductibles under this Agreement and the Train 1 EPC Agreement shall not exceed One Million Dollars (U.S.$1,000,000) per occurrence, with such liability being credited equally between Owner and FLIQ1 (unless Owner and FLIQ1 agree otherwise in writing). This Section 8.2A.1 shall not be interpreted to relieve Contractor of any of its other obligations or liabilities under the Agreement, including its obligations with respect to Defective Work and Corrective Work.

2. To the extent of Contractor's, Subcontractor's or Sub-subcontractor's fault, Contractor shall be liable to Owner for physical loss or damage that is not covered by the builder's risk policy to be procured by Owner under this Agreement because of any of the following exclusions to such builder's risk policy: aircraft, watercraft or vehicle, cash and money, wear, tear, erosion and corrosion, inventory and stocktaking, defects in design, plan, specification, material or workmanship, penalties and consequential loss, pollution and contamination arising out of a covered perils, contractor's plant and equipment, transmission and distribution lines, wet works, hydrocarbons, piling, electronic data, asbestos or toxic mold. Notwithstanding anything to the contrary herein, the Parties agree and acknowledge that, in the event that an insurance claim for physical loss or damage to the Train 2 Expansion is denied by the builder's risk policy insurer as a result of an exclusion listed in this Section 8.2A.2, Owner shall have the right to elect, at its own discretion, whether to dispute any such denial of the claim; *provided, however*, in the event of Owner's election to not dispute such denial of the insurance claim, such election shall not prejudice Contractor's right to dispute same with the insurer as an additional insured under the builder's risk policy or any argument by Contractor that such exclusion was not applicable in any Dispute with Owner arising out of a claim by Owner against Contractor that Contractor is liable to Owner for the physical loss or damage pursuant to this Section 8.2A.2.

3. With respect to any physical loss or damage to the Train 2 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Train 2 Expansion), Contractor shall be entitled to a Change Order adjusting the Guaranteed Substantial Completion Date and Required Final Completion Date if and to the extent permitted under Section 6.8A.

4. To the extent Contractor does not bear the risk of physical loss or damage as described in Section 8.2A, then with respect to such physical loss or damage to the Train 2 Expansion, Contractor shall be entitled to a Change Order adjusting the Contract Price for: (i) the cost to repair, reconstruct or replace the damaged Train 2 Expansion (which such adjustment shall account for updated progress payments to Contractor to maintain cash flows consistent

with the payment philosophies underlying the original progress payment terms and Maximum Cumulative Payment Schedule); (ii) the cost of debris removal, and (iii) to the extent recovered by Owner under insurance provided by Owner under Section 2.A.1 of Attachment O or to the extent otherwise directed by Owner in writing, the cost to accelerate or expedite such repair, reconstruction or replacement and stand-by costs, if any.

B. ***After Substantial Completion***. As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train 2 Expansion and each component thereof (other than Common Systems that achieve substantial completion under the Train 1 EPC Agreement) after Substantial Completion of the Train 2 Expansion is achieved. For Common Systems that achieve substantial completion under the Train 1 EPC Agreement, the risk of physical loss and damage to such Common Systems shall pass from Contractor to FLIQ1 in accordance with the Train 1 EPC Agreement; *provided that*, if the Train 1 EPC Agreement is terminated prior to the transfer of risk of physical loss and damage of those Common Systems that were to achieve substantial completion under the Train 1 EPC Agreement, then, as between Owner and Contractor, the risk of physical loss and damage to such Common Systems shall be borne by Owner after achievement of Substantial Completion under this Agreement. 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.

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.

B. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage.

C. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

D. ***Unavailable Insurance***. If any insurance (including the limits, coverage, endorsements, policy terms, conditions or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Owner and Contractor shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two (2) independent advisors, including insurance brokers, of recognized international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the required amount or coverage is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party; and *provided further* that such waiver is permitted pursuant to any agreements between Owner and its Lenders. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

9.2 **Irrevocable Standby Letter of Credit**. Owner shall provide Contractor with at least five (5) Business Days prior written notice of Owner's intent to issue NTP. Prior to Owner's issuance of NTP (or, if Owner has not provided at least 5 Business Days prior written notice of its issuance of NTP in accordance with the foregoing sentence, then within 5 Business Days after receipt of such notice), and as a condition precedent to Contractor's right to receive any payments under this Agreement, except payments expressly permitted pursuant to an LNTP, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of One Hundred and Twenty-Two Million Five Hundred Thousand U.S. Dollars (U.S.$122,500,000), and in the form of Schedule R-1, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a long-term local currency issuer credit rating of at least A- by Standard & Poor's and a long-term credit rating of at least A3 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, and at Owner's written request, Contractor shall replace the Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-1 specifying the general nature of such Default or breach or Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the

Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Letter of Credit that it has decided not to extend the Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a commercial bank meeting the requirements in this Section 9.2. Upon the achievement of Substantial Completion of the Train 2 Expansion, and Owner's acceptance and execution of the Substantial Completion Certificate in accordance with this Agreement, Owner shall return the original Letter of Credit, and any Letter of Credit amendments that have been issued, to the commercial bank that issued the Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-1 stating the Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Letter of Credit shall occur no later than five (5) Business Days after Owner's acceptance of Substantial Completion of the Train 2 Expansion. The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the Substantial Completion of the Train 2 Expansion. Partial drawings are permitted under the Letter of Credit. In addition, the Parties acknowledge that Contractor may fulfill the Letter of Credit requirements set forth in this Section 9.2 through multiple, coexistent Letters of Credit issued to Owner with the applicants of those Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Letters of Credit, in the aggregate, equal the dollar values required herein.

9.3 **Retention Letter of Credit**. Owner may withhold Retainage as provided under Section 7.13. As a condition precedent to Contractor's right to receive Retainage withheld by Owner, Contractor, in its sole discretion at any time during the course of the Train 2 Project, may deliver to Owner a retention letter of credit, naming Owner as beneficiary, in an amount not to exceed the cumulative amount withheld by Owner under Section 7.13A, in the form of Schedule R-2, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the retention letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Retention Letter of Credit***"). If at any time the rating of the commercial bank that issued the Retention Letter of Credit falls below either of the Investment Grade ratings, and at Owner's written request, Contractor shall replace the Retention Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the Retention Letter of Credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Retention Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-2 specifying the general nature of such Default or breach, Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Retention Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such

fourteen (14) Day period. The amount drawn on the Retention Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Retention Letter of Credit that it has decided not to extend the Retention Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Retention Letter of Credit for all remaining funds in the Retention Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Retention Letter of Credit and from a commercial bank meeting the requirements in this Section 9.3. Partial drawings are permitted under the Retention Letter of Credit. The Retention Letter of Credit shall remain in full force and effect from the issuance of the Retention Letter of Credit through the expiration of the Defect Correction Period under this Agreement. After expiration of the Defect Correction Period, Owner shall return the original Retention Letter of Credit, and any Retention Letter of Credit amendments that have been issued, to the commercial bank that issued the Retention Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-2 stating the Retention Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Retention Letter of Credit shall occur no later than five (5) Business Days after expiration of the Defect Correction Period. The amount of the Retention Letter of Credit shall be reduced on the same basis that Retainage is released pursuant to Section 7.13A. No later than five (5) Business Days after the passage of an event prompting a release of Retainage as set forth in Section 7.13A, Owner shall provide the commercial bank that issued the Retention Letter of Credit with written notice of such event in the form of Annex VI of Schedule R-2 stating that such event has occurred. For purposes of clarity, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in Section 7.13A. In addition, the Parties acknowledge that Contractor may fulfill the Retention Letter of Credit requirements set forth in this Section 9.3 through multiple, coexistent Retention Letters of Credit issued to Owner with the applicants of those Retention Letters of Credit being either CB&I, Zachry or Contractor; *provided that*, each of those Retention Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Retention Letters of Credit, in the aggregate, equal the dollar values required herein (including any reductions in value as set forth herein).

9.4 **Financial Statements**. As soon as available, but in any event within sixty (60) Days after the end of each fiscal quarter of Zachry Guarantor and CB&I Guarantor, Contractor shall deliver to Owner the unaudited and consolidated balance sheet of Zachry Guarantor and CB&I Guarantor as of the end of such quarter, the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of each of Zachry Guarantor and CB&I Guarantor, subject to normal year-end audit adjustments. As soon as available, but in any event not later than one-hundred twenty (120) Days after the end of each fiscal year of Zachry Guarantor and CB&I Guarantor, Zachry Guarantor and CB&I Guarantor shall deliver to Owner a copy of the audited consolidated balance sheets at the end of each such year as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 9.4 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

ARTICLE 10
OWNERSHIP OF DOCUMENTATION

10.1 **Ownership of Work Product**.

A. Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Train 2 Expansion done by Contractor for Owner (including any work done by Contractor or any of its Affiliates under the FEED Agreement or any other agreements between the Parties related to the Train 2 Project), Contractor or its Affiliates, Subcontractors or Sub-subcontractors will create or have created for this Train 2 Project certain plans, operating and maintenance procedures and manuals, Drawings, Specifications, calculations, or other technical tangible manifestations of Contractor's efforts (whether written or electronic) (hereinafter individually or collectively referred to as "***Work Product***"). Subject to Sections 10.1A.1 and 10.1A.2 below, Work Product prepared by Contractor or its Affiliates, Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Contractor, its Affiliates, Subcontractors, Sub-subcontractors or any other Person. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees that such ownership and copyrights in the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

1. If Contractor, using commercially reasonable efforts, is unable to procure ownership of the Work Product for Owner as set forth in Section 10.1A above from any Subcontractor and Sub-subcontractor, then, at a minimum, Contractor shall procure for Owner and its Affiliates from such Subcontractors and Sub-subcontractors an irrevocable, perpetual and royalty-free license (including with right to assign its right without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in the Facility) to use, disclose, modify and copy such Work Product for any purpose relating to the Expansion Facility.

2. For the avoidance of doubt, Contractor shall not be required to obtain rights to Work Product as set forth in Section 10.1A above from Subcontractors and Sub-subcontractors providing bulk commodities or generic "off-the-shelf" Equipment.

3. The Parties acknowledge that, with respect to Work Product relating to the Common Development Work, the rights, title and interest to such Work Product (or licenses, to the extent provided for in Section 10.1A.1) shall also

vest in FLIQ1 and its affiliates in accordance with the Train 1 EPC Agreement as well as FLIQ CF.

B. Notwithstanding Section 10.1A, as among Owner, Zachry, CB&I and Contractor, Zachry and CB&I shall retain ownership of all proprietary intellectual property rights owned by Zachry or CB&I and developed by Zachry or CB&I outside this Agreement, the FEED Agreement or any other agreements between the Parties (or their Affiliates) related to the Expansion Facility (hereinafter referred to as "***Contractor's Intellectual Property***"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in this Section 10.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary intellectual property owned and developed by Contractor's Equipment Subcontractors or Equipment Sub-subcontractors for any project other than the Expansion Facility ("***Third Party Proprietary Work Product***"). With respect to such Contractor's Intellectual Property and Third Party Proprietary Work Product relating to the Work or the Expansion Facility, Contractor hereby grants Owner and its Affiliates an irrevocable, perpetual and royalty-free license (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use, disclose, modify and copy such Contractor's Intellectual Property and Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided, however*, if Owner uses Third Party Proprietary Work Product or Contractor Intellectual Property for purposes other than those relating to the Expansion Facility, and Owner does not procure the necessary ownership, license or rights for such use, Owner shall indemnify, defend and hold harmless the Contractor Indemnified Parties with respect to any claims, damages, losses, liabilities or other causes of action arising from such use. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 10.1 except as provided in Section 10.1A.2 above.

10.2 **Return/Delivery of Certain Property**. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Train 2 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product and (ii) Contractor's Equipment Subcontractors and Equipment Sub-subcontractors may retain any Work Product generated by them so long as Owner has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets (native and .pdf files) of documents on CD-ROM for those Drawings and Specifications generated using CAD or other digital means.

10.3 **Contractor's License in Work Product**. Owner and FLIQ CF hereby, on behalf of themselves and their Affiliates, grant to Contractor an irrevocable, perpetual and royalty-free license to use, modify and copy the Work Product for any other project, except for any of the following which may be in such Work Product: (i) any proprietary intellectual property rights owned by Owner or any Affiliate of Owner; (ii) any proprietary intellectual property rights in which Owner or an Affiliate of Owner has a license; or (iii) any proprietary intellectual property rights developed during the performance of this Agreement, the FEED Agreement or any other agreement between the Parties relating to the Expansion Facility, which was derived in whole or part by participation of Owner or any Owner Affiliate. As a condition of using on another project

any Work Product which Contractor has a license under this Section 10.3, Contractor shall remove from the Work Product any reference to the Expansion Facility, Owner or FLIQ CF. The foregoing license and rights to use any Work Product granted to Contractor shall be subject to any limitations imposed on Contractor by third parties which have any ownership interest in such Work Product or any proprietary intellectual property embedded therein, and Contractor shall indemnify, defend and hold the Owner Indemnified Parties harmless with respect to any claims, damages, losses, liabilities or other causes of action which relate to Contractor's use of any Work Product for any purposes other than for the Expansion Facility.

10.4 **Owner Provided Documents**. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor 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 Owner upon the earlier of Substantial Completion of the Train 2 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media and (ii) if this Agreement is terminated prior to achievement of Substantial Completion, such documents may continue to be utilized for purposes of the Train 1 EPC Agreement and returned to Owner upon the earlier of substantial completion under the Train 1 EPC Agreement or termination of the Train 1 EPC Agreement.

ARTICLE 11
COMPLETION MILESTONES

11.1 **Notice and Requirements for RFSU and RLFC**.

A. ***Requirements of RFSU***. No later than eighteen (18) months after issuance of NTP, Contractor shall provide to Owner for its review and comment detailed RFSU requirements, in the form of checklists, for each Equipment system or subsystem in such designated portion of the Work. Once Contractor has incorporated all of Owner's comments and/or proposed revisions to the RFSU checklists, such RFSU checklists shall form a part of the requirements for achieving RFSU. Contractor shall comply with all requirements for RFSU set forth in this Agreement, including those requirements set forth in the definition of the term RFSU, Attachment A and Attachment V and the RFSU checklists agreed by Owner and Contractor pursuant to this Section. Upon RFSU of each system or subsystem of Equipment, Contractor shall certify to Owner in the form of Attachment L for RFSU of such system or subsystem ("***RFSU Certificate***") that all requirements under this Agreement for Ready For Start Up have occurred, including all of the requirements specified in the applicable RFSU checklist have been completed. The RFSU Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RFSU have been met.

B. ***Notice and Requirements of RLFC***. Without limitation of the foregoing or any other scheduling requirements contained in this Agreement, Contractor shall give Owner two hundred seventy (270) Days' prior written notice of a thirty (30) Day period in which it expects to achieve RLFC for the Train 2 Expansion (the "***First RLFC Window***

Period"). Ninety (90) Days after such initial notice, Contractor shall give Owner a second written notice specifying a twenty one (21) Day period in which it expects to achieve RLFC (the "***Second RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Second RLFC Window Period shall be the latest possible twenty one (21) Day period within the First RLFC Window Period. Sixty (60) Days after such second notice, Contractor shall give Owner a third written notice specifying a fourteen (14) Day period falling within the Second RLFC Window Period in which it expects to achieve RLFC (the "***Third RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Third RLFC Window Period shall be the latest possible fourteen (14) Day period within the Second RLFC Window Period. Sixty (60) Days after such third notice, Contractor shall give Owner a fourth written notice specifying a five (5) Day period falling within the Third RLFC Window Period in which it expects to achieve RLFC (the "***Fourth RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Fourth Window Period shall be the latest possible five (5) Day period within the Third RLFC Window Period. Owner shall be entitled to rely on such first, second, third and fourth notices in scheduling the LNG Tankers for the purpose of loading the first cargo of LNG for the Train 2 Expansion. In the event that Contractor at any time becomes aware or has reason to believe that its ability to achieve RLFC will be delayed beyond the applicable window period specified in the then current written notice given pursuant to this Section 11.1B, Contractor will immediately give Owner written notice of such fact and of the date on which Contractor then expects to achieve RLFC, but such notice shall not relieve Contractor of its responsibility to achieve RLFC within the then current window period. Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to achieve RLFC in accordance with this Section 11.1B. Contractor shall comply with all requirements for RLFC set forth in this Agreement, including those requirements set forth in the definition of the applicable RLFC and those set forth in Attachments A and V. To the extent not specified in Attachments A and V, the Parties shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon the requirements for achieving RLFC. At such time that the Train 2 Expansion has achieved RLFC, Contractor shall certify to Owner using the applicable RLFC Certificate that all requirements under this Agreement for RLFC have occurred. The RLFC Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RLFC have been met. Notwithstanding the foregoing and prior to the First RLFC Window Period, Contractor shall cooperate with Owner to propose an alternative notice and windowing procedure that is more cost efficient and economically feasible to Owner. If such alternative is accepted by Owner in its sole discretion, the foregoing notice and windowing procedure shall be modified by Change Order.

C. ***Notice Requirements for LNG Evacuation after RLFC***. The notice procedures set forth in this Section 11.1C shall be utilized by Contractor and Owner to set forth the time periods within which Owner shall evacuate certain amounts of LNG from the LNG storage tanks at the Facility after the first LNG Tanker is loaded and until Substantial Completion is achieved for the Train 2 Expansion. Subject to Owner's obligations under Section 4.8E, it shall be Owner's sole discretion as to the method

utilized by Owner to evacuate LNG from the LNG storage tanks within the time periods set by the procedure in this Section 11.1C. To the extent Owner fails to evacuate LNG in the amounts, and prior to the end of the firm 5-Day windows, set forth by this Section 11.1C, Owner shall have the obligations, and Contractor shall have the rights, set forth by Section 4.8D.

1. As part of Contractor's notice to Owner of the Fourth RLFC Window Period under Section 11.1B, Contractor shall provide Owner with an estimate, using GECP, of LNG volumes it expects to produce during commissioning and testing of the Train 2 Expansion up to Substantial Completion, including identifying estimated 5-Day windows within which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks in order to continue with its commissioning and testing activities. Thirty (30) Days after this written notice, Contractor shall provide Owner with another written notice updating any of the foregoing estimated LNG production volumes and 5-Day windowing periods and also identifying the first specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks (in addition to that amount of LNG that is to be evacuated by the RLFC LNG Tanker) or the result would be, in Contractor estimation (using GECP), a material interruption in Contractor's commissioning and testing activities. Upon commencement of loading of the RLFC LNG Tanker, Contractor shall give Owner another written notice updating the estimated LNG production volumes during commissioning and testing and the estimated 5-Day windowing periods and shall also identify the second specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks. Thereafter, Contractor shall provide Owner with additional written notices no less than once per Month updating the estimated LNG production volumes for commissioning and testing and the estimated 5-Day LNG evacuation windows. In these notices, or in separate written notices, Contractor shall specifically identify subsequent, firm 5-Day windows in which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks at the Facility, with such notice being provided at least thirty (30) Days in advance of the commencement of such window. If Contractor's commissioning and testing plans change after giving a specific, firm 5-Day window for LNG evacuation, Contractor shall notify Owner as promptly as possible giving the reason for the change, identifying the new 5-Day firm window and providing Contractor's estimate, using GECP, of the effects of any other estimated 5-Day windows. Owner shall use commercially reasonable efforts to provide LNG evacuation in the updated 5-Day window, but shall not be obligated to provide evacuation in accordance with the updated windowing schedule without receiving at least thirty (30) Days prior written notice. Any LNG evacuated by Owner either in amounts greater than 125,000 m^3 of LNG and/or earlier than an established firm 5-Day window shall be credited to Owner's LNG evacuation requirements of the next firm 5-Day window.

D. ***Delay in RLFC***.

1. If (i) RLFC occurs after the Fourth RLFC Window Period or (ii) the Train 2 Expansion, through no fault of Owner, is unable to load an LNG Tanker to demonstrate RLFC, then Contractor shall have the obligation to pay RLFC Delay Liquidated Damages as follows: One Hundred Thousand U.S. Dollars (U.S.$100,000) per Day for each Day, or portion thereof, until the commencement of LNG Tanker loading (the "***RLFC Delay Liquidated Damages***"), subject to an aggregate limitation on the assessment of RLFC Delay Liquidated Damages of One Million Five Hundred Thousand U.S. Dollars (U.S.$1,500,000).

2. If Owner does not deliver the LNG Tanker to load the first cargo within the applicable Fourth RLFC Window and Contractor is ready to receive such LNG Tanker, Contractor shall be entitled to a Change Order if and to the extent permitted under Section 6.8 or 6.9, as applicable.

11.2 **Notice and Requirements for Substantial Completion**. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of Substantial Completion herein and in Attachment A and Attachment S. To the extent Contractor has not already provided written notice under Section 11.1C, Contractor shall give Owner not less than ninety (90) Days' prior written notice of its intention to commence each Performance Test, and, on the thirtieth (30th) Day immediately prior to Contractor's intention to commence such testing activities, Contractor shall provide written notice to Owner. To the extent not specified in Attachment S, the Parties shall, no later than two hundred forty (240) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon final test procedures for the conduct of the Performance Tests. Contractor shall provide labor, equipment, supplies, and all other items necessary for the conduct of the Performance Tests; *provided, however*, that Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to conduct the Performance Tests. Contractor shall analyze the data obtained during all Performance Tests, and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to Owner at the completion of testing. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner using the Substantial Completion Certificate that all of the requirements under this Agreement for Substantial Completion have occurred and shall provide with such Substantial Completion Certificate a Performance Test report and analysis to Owner for the Performance Tests conducted for the Train 2 Expansion in order to achieve Substantial Completion. At a minimum, each Performance Test report shall include (i) the raw data, (ii) the instrumentation utilized for the applicable Performance Tests, (iii) the procedures utilized during the Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the Minimum Acceptance Criteria Testing Conditions, as and to the extent specified in Attachment S, and (v) any other supporting information used to demonstrate that the Work has met the Minimum Acceptance Criteria and, as applicable, other requirements of this Agreement for Substantial Completion. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

A. ***Handover of the Existing Facility Modifications***. The Parties agree and acknowledge that certain portions of the Train 2 Expansion and the Scope of Work will include modifications to the Existing Facility (as described further in Section 4.13 of Schedule A-1, the "***Existing Facility Modifications***"). The Existing Facility Modifications are subject to Section 8.2A of this Agreement and will be considered part of the Work and the Train 2 Expansion for purposes of this Agreement. Notwithstanding anything to the contrary in this Agreement (including the timing of transfer of risk of loss pursuant to Section 8.2), upon Handover of the Existing Facility Modifications, (i) the risk of loss shall transfer from Contractor to Owner for the Existing Facility Modifications, (ii) the Defect Correction Period will commence for the Existing Facility Modifications, (iii) Owner will take over care, custody and operational control of the Existing Facility Modifications and (iv) for purposes of Contractor's and Owner's rights and liabilities under Section 20.2 only, such Existing Facility Modifications will become part of the Existing Facility. "***Handover***" of any portion of the Existing Facility Modifications shall be established when Owner accepts, in writing, Contractor's written certification of the following: (1) that such portion of the Existing Facility Modifications (a) has been fabricated, installed, assembled, erected, and pre-commissioned in accordance with the requirements of the Agreement, (b) has been purged, cooled-down, commissioned and tested to the extent reasonably possible given the on-going operations of the Existing Facility, and (c) has been fully integrated into the Existing Facility and is capable of, and available for, full commercial operation in accordance with the requirements of this Agreement and (2) that Contractor has completed all necessary training, if any, of Owner's personnel with respect to such portion of the Existing Facility Modifications as required by Section 3.5 and Attachment V and Contractor has provided Owner with the necessary operating and maintenance manuals for such portion of the Existing Facility Modifications.

11.3 **Owner Acceptance of RLFC and Substantial Completion**. Owner shall notify Contractor whether it accepts or rejects the RLFC Certificate and Substantial Completion Certificate, as the case may be, within ten (10) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such RLFC Certificate and Substantial Completion Certificate shall be evidenced by Owner's signature on the RLFC Certificate or Substantial Completion Certificate, as applicable, which shall be forwarded to Contractor with such notice. If Owner does not agree that RLFC or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days after the delivery by Owner of its notice, Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall not relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

11.4 **Minimum Acceptance Criteria as a Condition of Substantial Completion**. As a condition of achieving Substantial Completion, Contractor shall achieve all Minimum Acceptance Criteria, as described in greater detail in this Section 11.4. The Performance Tests for determining whether the Work achieves Minimum Acceptance Criteria are described in Attachment S.

A. ***Minimum Acceptance Criteria Not Achieved***. In the event that the Work fails to achieve any of the Minimum Acceptance Criteria, as evidenced by the Performance Test results, by the Guaranteed Substantial Completion Date, as such date may be extended by Change Order as provided herein, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 13.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of six (6) months (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion for the Train 2 Expansion. If the Work has not achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor a second six (6) month Minimum Acceptance Criteria Correction Period under the same terms and conditions as the first, including the application of Section 13.2; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default at the end of either six (6) month period, Owner shall be entitled to the damages, costs, losses and expenses to which Owner is entitled under Section 16.1B. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, during the Minimum Acceptance Criteria Correction Period (or during the second six (6) month period, should Owner elect that option), then Contractor, subject to the limitations of liability set forth in Article 20, shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under this Agreement, including those under Section 13.2. During any Minimum Acceptance Criteria Correction Period, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under this Agreement, so long as such access does not unreasonably interfere with operation of the Work, the Existing Facility or the Train 1 Expansion (after substantial completion of the Train 1 Expansion) and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

B. ***MCHE Replacement Scenario***. Notwithstanding anything to the contrary in Section 11.4A, if (i) achievement of the LNG Production Rate MAC is the only condition remaining for the achievement of Substantial Completion, (ii) the Performance Test for the LNG Production Rate results in an LNG Production Rate of at least ninety-six percent (96%) (or greater) of the LNG Production Rate MAC and (iii) using GECP, Contractor determines that an underperforming MCHE is the sole Defect preventing achievement of the LNG Production Rate MAC and that such Defect is only capable of being corrected by replacing the Defective MCHE with a new MCHE (collectively, clauses (i) – (iii) being a "***MCHE Replacement Scenario***"), then this Section 11.4B shall set forth the rights and obligations of the Parties with respect to Contractor's obligation to achieve the Minimum Acceptance Criteria by replacing the MCHE. For purposes of

clarity, if any one of the above three (3) conditions is not met for the MCHE Replacement Scenario, or if Owner does not provide the MCHE Replacement Scenario Verification Notice (described below), the Parties' rights and obligations with respect to a failure to meet the Minimum Acceptance Criteria are as set forth in Section 11.4A.

1. If Contractor determines that a MCHE Replacement Scenario has occurred, it will provide written notice to Owner with sufficient evidence for Owner to objectively verify that a MCHE Replacement Scenario has occurred. Such written notice shall be accompanied by a Substantial Completion Certificate in the form of Attachment M, modified in a manner acceptable to Owner, identifying the occurrence of an MCHE Replacement Scenario but certifying that all other aspects of Substantial Completion have been achieved. Owner shall respond to Contractor's written notice within ten (10) Days after Owner's receipt of such notice being provided in accordance with this Section 11.4B.1, and Owner's response will either verify that a MCHE Replacement Scenario has occurred (the "***MCHE Replacement Scenario Verification Notice***") or provide an explanation, in reasonable detail, as to why the MCHE Replacement Scenario has not occurred. If Owner provides an MCHE Replacement Scenario Verification Notice to Contractor, Contractor shall promptly develop a plan for Owner's approval (not to be unreasonably withheld) for ordering and installing a new MCHE to replace the Defective MCHE on a timely basis.

2. If Owner provides the MCHE Replacement Scenario Verification Notice, Contractor shall install, commission and test the new MCHE, and Contractor shall cause the LNG Production Rate MAC to be achieved, within twenty-five (25) months after the earlier of (a) order placement of the replacement MCHE and (b) the Guaranteed Substantial Completion Date (such 25-month time period being the "***Replacement Timeline***"). To the extent that Substantial Completion Delay Liquidated Damages would be assessed against Contractor during the Replacement Timeline in accordance with Section 13.2A, such Substantial Completion Delay Liquidated Damages shall be temporarily suspended and, in lieu thereof, the MCHE Replacement Delay Liquidated Damages shall apply as follows:

(i) for an LNG Production Rate equal to ninety-six percent (96%) of the LNG Production Rate MAC, liquidated damages of Forty Thousand U.S. Dollars (U.S.$40,000) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(ii) for an LNG Production Rate equal to one hundred percent (100%) of the LNG Production Rate MAC, liquidated damages of Zero U.S. Dollars (U.S.$0) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2)

removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE); and

(iii) for an LNG Production Rate falling between 96% of the LNG Production Rate MAC and 100% of the LNG Production Rate MAC, liquidated damages shall be linearly proportional between the two points created by clauses (i) and (ii) above and such liquidated damages shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(collectively, the foregoing liquidated damages shall be considered the "***MCHE Replacement Delay Liquidated Damages***"). For purposes of clarity, the MCHE Replacement Delay Liquidated Damages are subject to the limitation on Contractor's liability for Delay Liquidated Damages set forth in Section 20.3.

3. If, during the Replacement Timeline, the LNG Production Rate increases from the rate determined by the LNG Production Rate Performance Test used to initially determine the MCHE Replacement Delay Liquidated Damages (as evidenced by a subsequent LNG Production Rate Performance Test or as mutually agreed by the Parties through actual measurements and/or calculations), the MCHE Replacement Delay Liquidated Damages shall be reduced in accordance with Section 11.4B.2 above.

4. MCHE Replacement Delay Liquidated Damages shall cease to be assessed against Contractor upon the earlier of (a) the end of the Replacement Timeline and (b) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE). If, at such time, Substantial Completion has not been achieved, and the Guaranteed Substantial Completion Date has passed, Substantial Completion Delay Liquidated Damages (as applicable) shall be assessed against Contractor in accordance with Section 13.2 until Substantial Completion is achieved.

5. During the Replacement Timeline, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under the Agreement and replace the Defective MCHE with the replacement MCHE, so long as such access does not unreasonably interfere with operation of the Work or the Existing Facility and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

6. If Owner verifies that a MCHE Replacement Scenario has occurred, Owner shall accompany its MCHE Replacement Scenario Verification Notice provided pursuant to Section 11.4B.1 with a written provisional acceptance of the Substantial Completion Certificate, modified in accordance with Section 11.4B.1 (such provisional acceptance being a "***Provisional Substantial Completion***"). Upon acceptance by Owner of Provisional Substantial Completion, (a) risk of loss shall transfer to Owner pursuant to Section 8.2B as if Substantial Completion had been achieved, (b) the Defect Correction Period, and Contractor's obligations to perform Corrective Work, shall commence as further described in the definition of "Defect Correction Period" and Article 12 and (c) Contractor's liability for damage or destruction of any Equipment of the Train 2 Expansion shall be set forth pursuant to Section 20.2 as if such Equipment had achieved Substantial Completion. In addition, upon providing Provisional Substantial Completion and notwithstanding Sections 11.8 and 11.9, Owner shall take over care, custody and control of the operations and maintenance of the Train 2 Expansion as if it had achieved Substantial Completion. Other than as set forth in this Section 11.4B.6, however, all of Contractor's and Owner's other rights and obligations under this Agreement shall remain in force as if Substantial Completion has not been achieved, including maintaining the amounts under the Letter of Credit as if the Train 2 Expansion had not yet achieved Substantial Completion. Further, the Defect Correction Period of any Work performed after Provisional Substantial Completion (including the replacement MCHE) shall commence upon achievement of Substantial Completion and shall continue for a period of eighteen (18) months after achievement of Substantial Completion (and the thirty (30) month period in Section 12.3B shall also run from Substantial Completion of the Train 2 Expansion).

7. Notwithstanding any acceptance by Owner of Provisional Substantial Completion in accordance with this Section 11.4B, in the event that the replacement MCHE fails to achieve the LNG Production Rate MAC, Owner shall have the rights, and Contractor shall have the obligations, set forth in Section 11.4A (except that in such case the Minimum Acceptance Correction Period(s) will have been deemed to have already expired).

11.5 **Punchlist**.

A. ***Punchlist for RFSU.*** Prior to RFSU for each system or subsystem of Equipment or the Work, Owner and Contractor shall inspect such Work, and Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve RFSU.

Upon Contractor's completion or correction of any items necessary to achieve RFSU and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for such system or subsystem of Equipment or the Work up to RLFC.

B. ***Punchlist for RLFC.*** After RFSU and prior to RLFC, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed updated, revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, revised Punchlist or otherwise that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that the Train 2 Expansion will achieve RLFC. Upon Contractor's completion or correction of any items necessary to achieve RLFC, and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items up to Substantial Completion.

C. ***Punchlist for Substantial Completion***. After RLFC and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist (as modified by any Owner additions), including agreement on the reasonable cost to perform such Punchlist Work, such Punchlist shall govern Contractor's performance of the Punchlist items up to Final Completion; *provided, however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of the Agreement. Provided Owner gives Contractor access to the Facility as set forth below, all Work on the Punchlist shall be completed no later than sixty (60) Days after achievement of Substantial Completion (or such longer period of time as the Parties may mutually agree in writing), or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work at the expense of Contractor. In the event Owner elects to complete such Punchlist Work, Contractor shall

immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs and expenses incurred in performing such Punchlist Work, not to exceed one hundred fifty percent (150%) of the agreed cost to perform such Punchlist Work. If Contractor performs any Punchlist Work, Owner shall provide Contractor with reasonable access to the Facility, and will de-energize and de-pressure the applicable Equipment sufficient for Contractor to perform its Punchlist activities, so long as such activities do not unreasonably interfere with the operation of the Facility and subject to any reasonable security and safety requirements of Owner.

11.6 **Notice and Requirements for Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within ten (10) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice. If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice (or within such additional time as mutually agreed to by the Parties in writing), Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18, subject to the Parties' rights and obligations under Section 11.5C.

11.7 **Partial Occupancy**. Prior to Contractor's achieving Substantial Completion, Owner, upon providing thirty (30) Days' written notice to Contractor specifying the occupation it intends to assume, may occupy all or any portion of the buildings for the Train 2 Expansion then capable of being safely occupied, *provided that*, such occupancy is authorized by the Governmental Instrumentality (to the extent such authorization is necessary) and Owner's insurance company or companies providing property insurance and builder's risk coverage have consented to such partial occupancy (to the extent such consent is necessary). Contractor shall assist Owner and take reasonable steps in obtaining consent of the insurance company or companies and applicable Government Instrumentalities. Immediately prior to such partial occupancy, Owner and Contractor shall jointly inspect the building to be occupied in order to determine and record the condition of the building and all personnel and environmental safety aspects of the building. Without limitation of the foregoing, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is occupying a building (or portion thereof). For any building (or portion thereof) that Owner occupies pursuant to this Section 11.7, the Defect Correction Period for that building (or portion thereof) shall commence upon Owner's occupancy of such building (or portion thereof) and the risk of loss for such building (or portion thereof) shall transfer to Owner, notwithstanding Section 8.2A; *provided that*, the risk of loss shall not transfer, and the Defect Correction Period shall not commence, for any Equipment housed within such building or portion thereof (other than HVAC and lighting).

11.8 **Operations Activities**. Prior to Substantial Completion of the Train 2 Expansion, but after RLFC has been achieved, Contractor shall, to the extent reasonably possible, assist Owner in the operations and maintenance of the Train 2 Expansion in accordance with Owner's reasonable requests and all Permits, including with respect to the performance of activities in connection with (i) the berthing of LNG Tankers and loading of LNG; (ii) the receipt of natural gas feed; (iii) producing LNG; and (iv) such other activities as reasonably requested by Owner (each, an "***Operations Activity***" and, collectively, the "***Operations Activities***"). Contractor shall not have the obligation to follow Owner's requests for any Operations Activity if such Operations Activity adversely impacts Performance Testing or repairs to the Train 2 Expansion or impacts the ability to safely operate the Train 2 Expansion in accordance with the requirements of this Agreement. Contractor shall promptly provide notice to Owner informing Owner whether it can comply with Owner's requests and the reason if it cannot so comply. Contractor's performance of the Operations Activities shall not in any way release Contractor from any obligations or liabilities pursuant to this Agreement, including its obligations to meet Substantial Completion and Final Completion. Notwithstanding anything to the contrary in this Section, any restrictions concerning Operations Activity shall not apply to the scheduling and berthing of LNG Tankers or the loading or unloading of LNG to or from the LNG Tankers after any LNG Tankers have been called or scheduled.

11.9 **LNG Tankers Calling on the Facility**. Subject to Section 11.8, Contractor acknowledges that certain Operations Activities may involve the berthing, loading or unloading of LNG Tankers (other than the LNG Tankers calling on the Facility for the first load of the Train 2 Expansion or for Performance Testing). Owner shall give Contractor at least fourteen (14) Days prior written notice of the berthing, loading or unloading of such LNG Tankers. Owner and Contractor shall develop a written plan to avoid or minimize impacts, if any, to the Work which would be caused by the berthing, loading or unloading of such LNG Tankers.

11.10 **Long-Term Obligations**. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of RFSU, RLFC, Substantial Completion or Final Completion, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations, any liabilities for which insurance is required or any other responsibility of Contractor, including the payment of any and all fines and penalties assessed as a result of Contractor's failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 11 shall in any way modify or alter Contractor's obligations under Article 12 and Article 13 hereof.

ARTICLE 12
WARRANTY AND CORRECTION OF WORK

12.1 **Warranty**.

A. ***General***. The warranties set forth in this Article 12 (collectively, the "***Warranty***" or "***Warranties***") are in addition to any of the Minimum Acceptance Criteria or Performance Guarantees set forth in this Agreement. Any Work, or component thereof,

that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

B. ***Warranty of Work***. Contractor hereby warrants that the Work, including Equipment, and each component thereof shall be:

1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;

2. in accordance with all of the requirements of this Agreement, including in accordance with GECP, Applicable Law and Applicable Codes and Standards;

3. free from encumbrances to title, as set forth in greater detail in Section 8.1;

4. free from defects in design, material and workmanship; *provided that*, tolerances in material and workmanship allowable by Applicable Law or Applicable Codes and Standards shall not be considered a defect unless the Scope of Work sets forth stricter tolerances; and

5. with respect to Equipment or any component of Equipment, unless otherwise specifically agreed in writing by Owner by Change Order, composed and made of only proven technology, of a type in commercial operation at the Effective Date of this Agreement, with conditions substantially similar to those contained herein; *provided that* Owner's agreement for Contractor to use any Equipment not in compliance with this Section 12.1B.5 shall not relieve Contractor of any of its obligations under this Agreement.

C. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work. All such warranties shall be deemed to run to the benefit of Owner and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be enforceable by Owner upon Substantial Completion. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 12 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is

jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument.

D. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by Owner; (ii) operation, maintenance or use of Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Contractor to Owner; (iii) normal wear and tear; or (iv) erosion or corrosion as a result of environmental elements not reasonably expected given the location of the Site.

12.2 **Correction of Work Prior to Substantial Completion**.

A. ***General Rights***. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon receipt of such written notice, Contractor shall, at its own expense, promptly correct such Defective Work, whether by repair, replacement or otherwise. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such dispute. If it is later determined that the Work was not Defective, then Owner shall reimburse Contractor for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact the repair or replacement may have had on the Train 2 Project Schedule. If Contractor fails, after a reasonable period of time not to exceed one (1) week, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor may repair or replace such Defective Work and the expense thereof shall be paid by Contractor; *provided, however*, if the Defective Work materially affects the operation or use of the Existing Facility or the Train 2 Expansion after it has achieved RLFC, or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty-four (24) hours after receipt of notice of such Defective Work, and thereafter continue to proceed diligently to complete the same, or Owner may repair or replace such Defective Work and the expense thereof shall be paid by Contractor.

B. ***Witness Points***. Contractor shall provide Owner a proposed list of witness points for each item of Equipment for Owner's review and prior written approval no later than thirty (30) Days' after placement of the applicable Subcontract for such item of Equipment, and Owner shall notify Contractor which of the witness points it wishes its

personnel to witness. Contractor shall provide Owner with at least thirty (30) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Owner's right of inspection as set forth herein applies only to its witnessing of witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion on the Work (including Equipment) at any time in its sole discretion and in accordance with this Agreement.

C. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 12.2A and 12.2B shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

D. ***Cost of Disassembling***. 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 Owner if such Work is found to conform with the requirements of this Agreement and by Contractor if such Work is found to be Defective.

12.3 **Correction of Work After Substantial Completion**. If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work, whether by repair, replacement or otherwise, including any and all obligations in connection with such repair, replacement or otherwise, such as in and out costs, storage, labor, Taxes, transportation and expediting costs and any other costs necessary to fully correct the Work (collectively, the "***Corrective Work***"). Owner shall provide Contractor with access to the Facility, and will de-energize and de-pressure the applicable Equipment, sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the construction or operation of the Facility and subject to any reasonable security or safety requirements of Owner. In the event Contractor utilizes spare parts owned by Owner in the course of performing the Corrective Work, Contractor shall supply Owner free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by Contractor as soon as possible following the utilization of such spare parts. Unless otherwise allowed by Owner in writing, Contractor will maintain at least one (1) Contractor's representative at the Site during the Defect Correction Period to assist in coordinating the resolution of any Defective Work.

A. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (including notification to Owner of its implementation plan to perform the Corrective Work) within a reasonable period of time not to exceed five (5) Days after receipt of Owner's written notice to Contractor identifying and describing with reasonable specificity that portion of Work that is Defective, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work, and Contractor shall be liable to Owner for all

reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses; *provided, however*, if any Defective Work materially affects the construction, operation or use of any of the Work or the Facility or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work without giving prior written notice to Contractor, and, in such event, Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses.

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.

C. ***Standards for Corrective Work***. All Corrective Work shall be performed subject to the same terms and conditions under this Agreement as the original Work is required to be performed. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Owner.

D. ***No Limitation***. Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the Defect Correction Period relates only to the specific obligation of Contractor to perform Corrective Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work.

12.4 **Assignability of Warranties**. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

12.5 **Waiver of Implied Warranties**. EXCEPT FOR ANY EXPRESS WARRANTIES UNDER THIS AGREEMENT (INCLUDING THE WARRANTIES), THE PARTIES HEREBY DISCLAIM ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY IMPLIED WARRANTY OF HABITABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 13
GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

13.1 **Guarantee of Timely Completion**. Contractor specifically acknowledges that time is of the essence as to the Guaranteed Substantial Completion Date, Guaranteed Record

As-Built Delivery Date and the dates for when Contractor is required to be ready under this Agreement to load the LNG Tanker for RLFC.

13.2 **Delay Liquidated Damages**.

A. ***Delay in Substantial Completion***. If Substantial Completion occurs after the Guaranteed Substantial Completion Date, Contractor shall pay to Owner the amounts listed in Attachment E per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Substantial Completion Delay Liquidated Damages***").

B. ***Delay in Achieving Record As-Built Delivery Requirement***. If the Record As-Built Delivery Requirement occurs after the Guaranteed Record As-Built Delivery Date, Contractor shall pay to Owner Ten Thousand Dollars per Day for each Day, or portion thereof, of delay until the Record As-Built Delivery Requirement is achieved (the "***Record As-built Delivery Requirement Delay Liquidated Damages***").

C. ***RLFC Delay Liquidated Damages***. RLFC Delay Liquidated Damages shall be assessed in accordance with Section 11.1D and paid in accordance with Section 13.2E.

D. ***MCHE Replacement Delay Liquidated Damages***. MCHE Replacement Delay Liquidated Damages shall be assessed in accordance with Section 11.4B.2 and paid in accordance with Section 13.2E.

E. ***Payment of Delay Liquidated Damages***. With respect to any Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within thirty (30) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages. In addition, with respect to the achievement of Substantial Completion, Contractor shall pay Owner all Delay Liquidated Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

13.3 **Schedule Bonus**. Contractor shall be entitled to a bonus in the amount of Five Hundred Thousand U.S. Dollars (U.S.$500,000) per Day for each Day that Contractor achieves Substantial Completion before the Schedule Bonus Date; *provided that* (i) the maximum bonus payable under this Section 13.3 shall be Seventy-Five Million U.S. Dollars (U.S.$75,000,000) and (ii) the bonus payable under this Section 13.3 shall be reduced in the amount of the sum of any claims by Owner against Contractor, any claims by Contractor against Owner or any liens against the Site that are brought by Contractor or any Subcontractors or Sub-subcontractors, if such claims are not resolved as of the date of Final Completion. Any bonus owed under this Section 13.3 shall be paid by Owner within thirty (30) Days after Final Completion and Owner receiving an invoice for such bonus.

ARTICLE 14
CONTRACTOR'S REPRESENTATIONS

Contractor, CB&I and Zachry represent and warrant, as applicable, that:

14.1 **Corporate Standing**. Contractor is a joint venture duly organized, validly existing and in good standing under the laws of the State of Texas; CB&I is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas; Zachry is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; and each is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

14.2 **No Violation of Law; Litigation**. Each is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best of its knowledge) threatened against Contractor, CB&I or Zachry that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, CB&I or Zachry, or the ability of any of them to perform under this Agreement.

14.3 **Licenses**. Contractor is either the holder of all Permits, or will acquire all Permits required to permit it to operate or conduct its business as required by Section 3.12.

14.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the charter or by-laws of Contractor, CB&I or Zachry, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor, Zachry or CB&I is a party or by which any of them are bound or to which any of them are, or any of their property or assets is, subject, or constitute a default under any such agreement or instrument.

14.5 **Corporate Action**. Each has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of each; and this Agreement has been duly and validly executed and delivered by each and constitutes a legal, valid and binding obligation of Contractor, CBI and Zachry enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

14.6 **Financial Solvency**. Each is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Each Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.16 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.16.

ARTICLE 15
OWNER'S REPRESENTATIONS

Owner represents and warrants that:

15.1 **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2 **No Violation of Law; Litigation**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.3 **Licenses**. It is the holder of (or is a beneficial user of) or will take the necessary action to obtain, or cause to be obtained, all Permits under Attachment Q.

15.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the operating agreement or by-laws of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.5 **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.6 **Financing and Payment**. Owner has obtained financing, or will obtain financing prior to or upon issuance of NTP, from one or more Lenders to enable it to pay all debts as they mature and perform its payment obligations under this Agreement.

ARTICLE 16
DEFAULT, TERMINATION AND SUSPENSION

16.1 **Default by Contractor**.

A. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) repeatedly fail to prosecute the Work in a diligent, efficient, workmanlike, skillful and safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) effect an Abandonment of the Train 2 Project; (iv) repudiate any of its material obligations under the Agreement; (v) repeatedly fail to use an adequate amount or quality of personnel or equipment to perform and complete the Train 2 Project without delay; (vi) be in Default pursuant to Section 5.4F, 11.4A or 21.7; (vii) fail to maintain insurance required under this Agreement; (viii) fail to provide or maintain the Letters of Credit or the Parent Guarantee in accordance with Section 9.2 or Section 21.16, respectively; (ix) fail to discharge or bond liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (x) cause, by any action or omission, any material stoppage or delay of or interference with the operations of the Existing Facility, except as allowed under Section 3.25; (xi) fail to make payment to Subcontractors for labor or materials owed in accordance with the respective Subcontracts; (xii) disregard Applicable Law or Applicable Codes and Standards; (xiii) fail to comply with any material provision of this Agreement; or (xiv) itself or the Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection (each of the foregoing being a "***Default***") then (following Owner's written notice to Contractor specifying the general nature of the Default, unless Contractor cures such condition within the applicable Cure Period, if any, set forth below) Owner, at its sole option and without prejudice to any other rights that it has under this Agreement, but remaining subject to the limitations of liability set forth in Article 20, may (1) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all reasonable, additional costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation expenses) incurred by Owner in connection therewith, (2) terminate for Default Contractor's performance of all or any part of the Work, or (3) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Notwithstanding the foregoing, Owner shall not be entitled to terminate Contractor as a result of a delay in achieving Substantial Completion during the first six (6) months after the Guaranteed Substantial Completion Date; *provided that* Owner shall be entitled to terminate Contractor prior to the expiration of such six (6) month period if (i) Contractor is not paying to Owner when owed Delay Liquidated Damages during such six (6) month period or Contractor is not diligently performing the Work and (ii) Owner is otherwise entitled to terminate Contractor under this Section 16.1A. In addition, Owner shall not be entitled to terminate Contractor for anticipatory delay in achieving Substantial Completion unless, based on the current progress of the Work, Contractor is projected to achieve Substantial Completion six (6) months or more beyond the Guaranteed Substantial Completion Date, *provided that* Owner shall be entitled to terminate Contractor at any time if Contractor is

not diligently performing the Work and Owner is otherwise entitled to terminate Contractor under this Section 16.1A.

1. Contractor shall have the following time periods to cure Defaults identified by Owner pursuant to Section 16.1A (as applicable, the "***Cure Period***"): (A) for items (i), (ii), (iii), (iv), (v), (x), and (xiii) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default, *provided that*, if, due to the nature of the Default, it cannot be cured by exercising all practicable diligence within such 30-Day period, Contractor shall cure the Default as soon as reasonably practicable but, in any event, not more than sixty (60) Days after receipt of written notice from Owner of the Default (unless otherwise expressly agreed upon by the Parties in writing); (B) for items (vii), (viii), (ix), (xi) and (xii) in Section 16.1A, Contractor shall cure the Default within fourteen (14) Days after receipt of written notice from Owner of such Default; (C) for a Default pursuant to Section 5.5H via item (vi) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default; (D) for a Default pursuant to item (xiv) in Section 16.1A or pursuant to Section 11.4A via item (vi) in Section 16.1A, no Cure Period shall be provided and Owner's right to terminate shall be exercisable immediately upon Contractor being provided written notice of Default; and (E) for a Default pursuant to Section 21.7 via item (vi) in Section 16.1A, Contractor shall cure the Default within five (5) Business Days after receipt of written notice from Owner of such Default.

B. ***Additional Rights of Owner Upon Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1A, then Owner may, at its sole option, (i) enter onto the Site and, for the purpose of completing the Work, take possession of all equipment, tools, supplies, scaffolding and machinery rented by Contractor and all Equipment, Books and Records and Work Product, (ii) take assignment of any or all of the Subcontracts, and/or (iii) complete the Work either itself or through others. If the unpaid balance of the Contract Price shall exceed all damages, costs, losses and expenses incurred by Owner (including all attorneys' fees, consultant fees and litigation expenses, costs to complete the Work, Delay Liquidated Damages and any and all damages for failure of performance and cost of financing or interest on such expense from the date such expense was incurred by Owner at the rate specified in Section 7.7), then such excess shall be paid by Owner to Contractor, but such amount shall not be paid until after Final Completion has been achieved. If such amount incurred by Owner shall exceed the unpaid balance of the Contract Price, then, at Owner's sole option, Contractor shall pay Owner the difference within thirty (30) Days after written notice of the demand, or Owner shall have the right and authority to offset or collect on the Letter of Credit in the amount of such difference. Subject to Article 20, Contractor's liability under this Section 16.1B is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination for Default, including the obligations to act reasonably promptly in replacing Contractor with a substitute contractor. In the event of a

termination for Default, the Parties agree that Owner shall be entitled to all damages, losses and reasonable costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages; *provided that* Contractor's maximum liability under this Article 16 is limited by the limitations of liability set forth in Article 20, including, for Delay Liquidated Damages, as provided by Section 20.3A. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for purposes of this Section 16.1B, and with respect to Substantial Completion that was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion or, using GECP, should have achieved Substantial Completion under the circumstances.

C. ***Obligations Upon Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) inventory, maintain and turn over to Owner all equipment, machinery, materials, tools, supplies and scaffolding rented by Contractor or provided by Owner for performance of the terminated Work, (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations under Section 16.1B.

16.2 **Termination for Convenience by Owner**. Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts, (iv) assist Owner in the maintenance, protection, and disposition of Work in progress, (v) cooperate with Owner for the efficient transition of the Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards and Owner may, at its sole option, take assignment of any or all of the Subcontracts. Contractor

shall be paid (1) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement) prior to termination, less that portion of the Contract Price previously paid to Contractor (including down payments, if any, made under this Agreement), plus (2) reasonable close-out costs (plus profit and general and administrative expenses for such costs) submitted in accordance with this Section, plus (3) reasonable costs (plus profit and general and administrative expenses for such costs) for demobilizing Contractor, Subcontractor and Sub-subcontractor personnel, construction equipment and temporary facilities from the Site to their point of origin, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable close-out and demobilization costs to Owner for verification and audit within one hundred twenty (120) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of One Hundred U.S. Dollars (U.S.$100) for its undertaking to perform. With respect to payments regarding Payment Milestones, the Parties recognize and agree that the amount and timing of the Payment Milestone payments have been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under the Payment Milestones. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for such Payment Milestones performed but instead shall be entitled to the value of the Work actually performed.

16.3 **Suspension of Work**. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Expansion Facility Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the Train 2 Project Schedule if and to the extent permitted under Section 6.9. Upon receipt of notice to resume suspended Work, Contractor shall promptly resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 **Suspension by Contractor**. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, subject to Owner's right to withhold or offset payment to Contractor under this Agreement, if Owner fails to pay undisputed amounts due and owing to Contractor and Owner has failed to cure such failure within thirty (30) Days following Contractor's written notice to Owner to cure such failure, Contractor may suspend performance of the Work until Contractor receives such undisputed amounts. Contractor shall be entitled to a

Change Order for any costs incurred by Contractor resulting from such suspension and shall be entitled to an extension in the Train 2 Project Schedule to the extent permitted under Section 6.9.

16.5 **Termination by Contractor**. Contractor may terminate this Agreement if, continuing at the time of such termination, Contractor has stopped the performance of all Work under this Agreement pursuant to Section 16.4 for thirty (30) Days, and after the expiration of such thirty (30) Day period, Contractor gives Owner written notice specifying the nature of the default and its intent to terminate the Agreement, and Owner fails to cure such default within thirty (30) Days after receipt of Contractor's notice. In the event of any such termination under this Section 16.5, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 in the event of an Owner termination for convenience. This Section 16.5 and Sections 16.6 and 21.7 set forth Contractor's only rights to terminate this Agreement.

16.6 **Termination Due to Extended Force Majeure**. Contractor may terminate this Agreement by providing written notice to Owner of its intent to terminate the Agreement in the event a single event of Force Majeure prevents performance of all of the Work for a period of time in excess of ninety (90) Days, unless prior to the expiration of such ninety (90) Day period Owner agrees to pay Contractor's reasonable standby costs incurred by Contractor after the expiration of such ninety (90) Days, which shall be documented by Change Order. If Owner agrees to pay such reasonable standby costs and commences paying such reasonable standby costs, then Contractor shall not be entitled to terminate the Agreement until the expiration of a total of three hundred sixty-five (365) Days. In the event of any termination under this Section 16.6, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 regarding a termination for convenience.

ARTICLE 17
INDEMNITIES

17.1 **General Indemnification**. IN ADDITION TO ITS INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS CONTAINED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND OWNER INDEMNIFIED PARTIES FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY OF THE FOLLOWING:

A. ACTUAL OR ALLEGED FAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT;

B. SUBJECT TO SECTIONS 17.4 AND 19.2A, ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B;

C. ACTUAL OR ALLEGED CONTAMINATION, SPILL, RELEASE, DISCHARGE OR POLLUTION ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ONTO THE SITE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, OR ANY INCREASED CONTAMINATION OR POLLUTION CAUSED BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR DUE TO THE FAILURE TO STOP WORK UPON DISCOVERING ANY PRE-EXISTING HAZARDOUS MATERIALS WHICH CONTRACTOR OR SUCH SUBCONTRACTOR OR SUB-SUBCONTRACTOR KNOWS OR REASONABLY SUSPECTS TO BE HAZARDOUS MATERIAL;

D. CLAIMS BY ANY GOVERNMENTAL INSTRUMENTALITY AS A RESULT OF A FAILURE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TO PAY TAXES FOR WHICH IT IS RESPONSIBLE UNDER THIS AGREEMENT;

E. FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT; OR

F. BODILY INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO THE WORK, TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

17.2 **Injuries to Contractor's Employees and Damage to Contractor's Property**. NOTWITHSTANDING THE PROVISIONS OF SECTION 17.1F, CONTRACTOR SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR OR SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY EMPLOYEE, OFFICER OR DIRECTOR OF ANY OF THEM, REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF AN OWNER INDEMNIFIED PARTY.

17.3 **Injuries to Owner's Employees and Damage to Owner's Property**. OWNER SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS, DIRECTORS OF ANY OWNER INDEMNIFIED PARTY OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF OWNER INDEMNIFIED PARTIES (EXCLUDING THE WORK, THE

EXPANSION FACILITY AND THE EXISTING FACILITY), REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF ANY CONTRACTOR INDEMNIFIED PARTY.

17.4 **Owner's Patent and Copyright Indemnification**. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS ATTRIBUTABLE TO PROCESSES PRACTICED BY OWNER IN THE OPERATION OF THE EXISTING FACILITY, UNLESS SUCH PROCESS IS UNDERTAKEN AS REQUIRED IN WRITING BY CONTRACTOR (OR REQUIRED UNDER THE SCOPE OF WORK) TO FACILITATE THE PERFORMANCE OF THE WORK OR THE OPERATION OF THE EXPANSION FACILITY.

17.5 **Contractor's Patent and Copyright Indemnification**. IN THE EVENT THAT ANY SUIT, CLAIM, TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IS GRANTED IN CONNECTION WITH SECTION 17.1B, CONTRACTOR SHALL, IN ADDITION TO ITS OBLIGATION UNDER SECTION 17.1B, 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, CONTRACTOR SHALL PROMPTLY MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE, AT NO COST TO OWNER, AUTHORIZING CONTINUED USE OF THE INFRINGING WORK. IF CONTRACTOR IS UNABLE TO SECURE SUCH A LICENSE WITHIN A REASONABLE TIME, CONTRACTOR 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. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B.

17.6 **Lien Indemnification**. SHOULD ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY OTHER PERSON ACTING THROUGH OR UNDER CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR FILE A LIEN OR OTHER ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE WORK, THE SITE OR THE FACILITY, CONTRACTOR SHALL, AT ITS SOLE COST AND EXPENSE, REMOVE AND DISCHARGE, BY PAYMENT, BOND OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE WITHIN TWENTY (20) DAYS AFTER THE FILING OF SUCH LIEN OR ENCUMBRANCE, *PROVIDED THAT*, OWNER HAS MADE PAYMENT TO CONTRACTOR OF ALL UNDISPUTED AMOUNTS OWED TO CONTRACTOR IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF CONTRACTOR FAILS TO REMOVE AND DISCHARGE ANY SUCH LIEN OR ENCUMBRANCE WITHIN SUCH TWENTY (20) DAY PERIOD, THEN OWNER MAY, IN ITS SOLE DISCRETION AND IN ADDITION TO ANY OTHER RIGHTS THAT IT HAS UNDER THIS AGREEMENT, AT LAW OR EQUITY, TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

A. REMOVE AND DISCHARGE SUCH LIEN AND ENCUMBRANCE USING WHATEVER MEANS THAT OWNER, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE, INCLUDING THE PAYMENT OF SETTLEMENT AMOUNTS THAT IT DETERMINES IN ITS SOLE DISCRETION AS

BEING NECESSARY TO DISCHARGE SUCH LIEN OR ENCUMBRANCE. IN SUCH CIRCUMSTANCE, CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES, AND SETTLEMENT PAYMENTS) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH REMOVAL AND DISCHARGE. ALL SUCH DAMAGES, COSTS, LOSSES AND EXPENSES SHALL BE PAID BY CONTRACTOR NO LATER THAN THIRTY (30) DAYS AFTER RECEIPT OF EACH INVOICE FROM OWNER;

B. SEEK AND OBTAIN AN ORDER GRANTING SPECIFIC PERFORMANCE FROM A COURT OF COMPETENT JURISDICTION, REQUIRING THAT CONTRACTOR IMMEDIATELY DISCHARGE AND REMOVE, BY BOND, PAYMENT OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE. THE PARTIES EXPRESSLY AGREE THAT OWNER SHALL BE ENTITLED TO SUCH SPECIFIC PERFORMANCE AND THAT CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH SPECIFIC PERFORMANCE ACTION. CONTRACTOR AGREES THAT THE FAILURE TO DISCHARGE AND REMOVE ANY SUCH LIEN OR ENCUMBRANCE WILL GIVE RISE TO IRREPARABLE INJURY TO OWNER AND OWNER'S AFFILIATES, AND FURTHER, THAT OWNER AND SUCH OWNER AFFILIATES WILL NOT BE ADEQUATELY COMPENSATED BY DAMAGES; OR

C. CONDUCT THE DEFENSE OF ANY ACTION IN RESPECT OF (AND ANY COUNTERCLAIMS RELATED TO) SUCH LIENS OR ENCUMBRANCES AS SET FORTH IN SECTION 17.7, WITHOUT REGARD TO CONTRACTOR'S RIGHTS UNDER SUCH SECTION.

17.7 **Legal Defense**. 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 AGREEMENT, 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 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 SECTION 17.7, 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 ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION 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 INTEREST ON SAME FROM THE DATE ANY SUCH COST AND EXPENSE WAS PAID BY SUCH INDEMNIFIED PARTY UNTIL REIMBURSED BY THE INDEMNIFYING PARTY AT THE INTEREST RATE SET FORTH IN THIS AGREEMENT.

17.8 **Enforceability**.

A. EXCEPT AS OTHERWISE SET FORTH ABOVE, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR BODILY INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT 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 17 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

B. OWNER AND CONTRACTOR AGREE THAT THE TEXAS OILFIELD ANTI-INDEMNIFICATION ACT, TEX. CIV. PRAC. & REM. CODE ANN. §§ 127.001-005, TEX. CIV. PRAC. & REM. CODE ANN. §§ 130.001-005 AND TEX. INS. CODE ANN. CHAPTER 151 ARE 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, EACH PARTY HEREBY AGREES TO 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 CONTRACTOR AGREES THAT THE CONTRACT PRICE COMPENSATES CONTRACTOR FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THE AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

C. 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. EACH PARTY ACKNOWLEDGES SPECIFIC PAYMENT OF TEN AND NO/100 U.S. DOLLARS (U.S. $10.00) AS LEGAL CONSIDERATION FOR THE INDEMNITY OBLIGATIONS AS MAY BE PROVIDED IN THIS AGREEMENT.

ARTICLE 18
DISPUTE RESOLUTION

18.1 **Negotiation**. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute,

regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement) ("***Dispute***") cannot be resolved informally within fifteen (15) Days after the Dispute arises, or such longer period of time as mutually agreed to in writing by the Parties, either Party may give written notice to the other Party requesting that a representative of Owner's senior management and Contractor's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such notice, or such longer period of time as mutually agreed to in writing by the Parties, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 18.1 be construed to limit either Party's right to take any action under this Agreement, including Owner's rights under Section 16.1.

18.2 **Mediation**. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) Days of receipt of the notice set forth in Section 18.1, then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other Party requesting such mediation, which shall be held in Houston, Texas, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) Days after the date written notice of mediation is received, either Party may petition the American Arbitration Association ("***AAA***") for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the AAA's Construction Industry Arbitration Rules and Mediation Procedures then in effect. The mediation shall be concluded within forty-five (45) Days after receipt of the mediation request, unless the Parties agree otherwise. The Parties and the mediator shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (i) views expressed or suggestions made by either Party with respect to a possible settlement of the Dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement made by the mediator. With respect to expenses related to mediation, the expenses of witnesses for either Party shall be paid by the Party producing such witnesses; all other expenses of mediation, including required traveling, fees and other expenses of the mediator, shall be borne equally by the Parties unless otherwise agreed by the Parties. Mediation is an absolute condition precedent to litigation, except (i) to the extent necessary to avoid statute of limitation issues or to preserve bond rights, (ii) if another Dispute is already subject to litigation pursuant to this Article or (iii) if a dispute under the Train 1 EPC Agreement is already subject to litigation pursuant to its terms and the Dispute hereunder is related to such Train 1 EPC Agreement dispute.

18.3 **Litigation**. In the event that the Dispute is not resolved by mediation within forty-five (45) Days (or such other time agreed upon in writing by the Parties pursuant to Section 18.2) after receipt of the mediation request given in accordance with 18.2, then the Parties agree that such Dispute shall be decided by litigation pursuant to this Section 18.3. Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail

in accordance with the notice provisions of this Agreement, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdiction. Nothing herein shall affect the right of any Party to serve legal process in any manner permitted by Applicable Law or affect its right to bring any action that does not arise out of or relate to this Agreement in any other court of competent jurisdiction. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE BETWEEN THE PARTIES OR WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

18.4 **Continuation of Work During Dispute**. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 or 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall the occurrence of any negotiation or litigation prevent or affect Owner from exercising its rights under this Agreement, including Owner's right to terminate pursuant to Article 16.

ARTICLE 19
CONFIDENTIALITY

19.1 **Contractor's Obligations**. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information, whether disclosed prior to or after the Effective Date: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary for such Subcontractor or Sub-subcontractor to perform any Work or (ii) any other information which is conspicuously marked and identified in writing as confidential and relates to the business, products, services, research or development, actual or potential clients or customers, financing of the Train 2 Project, designs, methods, discoveries, trade secrets, research, development or finances of Owner or any Owner Affiliate, or relating to similar information of a third party who has entrusted such information to Owner or any Owner Affiliate (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to disclosing any Owner's Confidential Information in (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Proprietary Work Product.

19.2 **Owner's Obligations**. Owner hereby covenants and warrants that Owner 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 any of the following information: (i) any estimating, technical or pricing information, methodologies,

techniques or know-how of Contractor or its Subcontractors relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor, (ii) any of Contractor's Intellectual Property or Third Party Proprietary Work Product, which is conspicuously marked and identified in writing as confidential by Contractor or (iii) any financial information provided to Owner pursuant to Section 9.4, whether or not marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). Subject to Section 19.2A, the Parties agree that Owner may disclose Contractor's Confidential Information to its Affiliates, partners, underwriters, customers, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and its representatives, Owner's (or Owner's Affiliates') consultants, rating agencies or any other party in relation to project financing for the Train 2 Project, *provided that* Owner binds such Persons to confidentiality obligations similar to those contained in this Section 19.2. Notwithstanding the foregoing (but subject to Section 10.1), in no event shall Owner be restricted in any way from the use or disclosure of the Work Product, and Owner shall be entitled to disclose to Persons that portion of Contractor's Intellectual Property and Third Party Proprietary Work Product for which Owner has a license to the extent such disclosure is consistent with the purposes for which such license is granted pursuant to Section 10.1.

A. Notwithstanding the foregoing rights and obligations set forth in Section 19.2, with respect to Air Products and Chemicals, Inc.'s (APCI) Third Party Proprietary Work Product disclosed to any members of the board of directors of Owner or any of its Affiliates that are employed by ConocoPhillips Company, Owner shall prevent any disclosure of such APCI Third Party Proprietary Work Product to other employees or representatives of ConocoPhillips Company (who are not a member of those boards of directors) or the use of such APCI Third Party Proprietary Work Product by such board member as part of his or her employment with ConocoPhillips Company (other than employment functions related to being a member of such board of directors) and, in the event such unauthorized disclosure or use of APCI Third Party Proprietary Work Product does occur, Owner shall protect, indemnify, defend and hold Contractor Group harmless from and against all claims, demands, causes of action, and suits of every type and character (including intellectual property infringement claims), including reasonable attorney's fees, brought by APCI or ConocoPhillips against Contractor Group and arising out of such unpermitted disclosure or use.

19.3 **Definitions**. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 **Exceptions**. Notwithstanding Sections 19.1 and 19.2, 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 Article 19; (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, other

than directly or indirectly disclosed or acquired through the FEED Agreement, or any other agreements between the Parties related to the Train 2 Project; (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, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies, including FERC, in connection with the Facility to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed and, to the extent reasonably capable under Applicable Law and the circumstances surrounding the disclosure, shall provide Disclosing Party with an opportunity to take appropriate steps the Disclosing Party believes are necessary to protect the confidentiality and/or proprietary nature of its Confidential Information.

19.5 **Equitable Relief**. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, 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, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 **Term**. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of ten (10) years following the expiration or earlier termination of this Agreement.

ARTICLE 20
LIMITATION OF LIABILITY

20.1 **Contractor Aggregate Liability**. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of Four Hundred and Thirty Million U.S. Dollars (U.S.$430,000,000) in the aggregate; *provided that*, notwithstanding the foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply in the event of Abandonment of the Train 2 Project by Contractor; (ii) apply to Contractor's indemnification obligations under this Agreement with respect to any claims brought by a third party; (iii) apply to Contractor's obligation to deliver to FLIQ CF full legal title to and ownership of all or any portion of the Work and the Train 2 Expansion as required under this Agreement; (iv) include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Contractor or any of its Subcontractors or Sub-subcontractors under this Agreement; or (v) apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion for the Train 2 Expansion and the costs incurred by Contractor in performing the Work shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Contractor, Owner, Lender or their respective Affiliates or member companies.

20.2 **Damage to the Existing Facility, the Train 1 Expansion After Substantial Completion Under the Train 1 EPC Agreement and the Train 2 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 or Train 1 Expansion) for any damages, losses, costs and expenses arising from or related to damage to or destruction of (i) any portion of the Train 2 Expansion occurring after the Train 2 Expansion has achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2A for Existing Facility Modifications at Handover), (ii) of the Existing Facility or (iii) the Train 1 Expansion after its substantial completion under the Train 1 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 or joint negligence or fault of any Contractor Indemnified Party or Contractor's Subcontractors or Sub-subcontractors. 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, 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*, that Contractor's liabilities assumed under this Section 20.2 shall remain subject at all times to 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 2 Expansion occurring after the Train 2 Expansion achieved Substantial Completion (or after risk of loss transfers to Owner under Section 11.7 for buildings or under Section 11.2A for Existing Facility Modifications at Handover), (b) the Existing Facility and (c) any portion of the Train 1 Expansion occurring after substantial completion of the Train 1 Expansion under the Train 1 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 2 Expansion under Section 8.2.

20.3 **Limitation on Contractor's Liability for Delay Liquidated Damages**.

A. ***Delay Liquidated Damages***. Subject to Section 20.3B, Contractor's maximum liability to Owner for Delay Liquidated Damages is One Hundred Ninety Million U.S. Dollars (U.S.$190,000,000) in the aggregate. For purposes of clarity, the Substantial Completion Delay Liquidated Damages, the RLFC Delay Liquidated Damages, the MCHE Replacement Delay Liquidated Damages and the Record As-Built Delivery Requirement Delay Liquidated Damages assessed against Contractor pursuant to Sections 13.2A, 11.1D, 11.4B, and 13.2B, respectively, shall apply towards the foregoing limitation of Contractor's Delay Liquidated Damages.

B. ***Exceptions to Limitations of Liability Under Section 20.3***. Section 20.3A shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve Substantial Completion and Final Completion and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.3 apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel.

20.4 **Delay Liquidated Damages In General**.

A. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of the per Day rate of the Delay Liquidated Damages on the basis that such per Day rate constitutes a penalty or is otherwise unenforceable or invalid. If Contractor, Guarantor or anyone on their behalf successfully challenges the per Day rate of any Delay Liquidated Damages, Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement. For the avoidance of doubt, this Section 20.4A shall not preclude Contractor from contesting whether it is responsible for delays giving rise to Owner's claims for Delay Liquidated Damages.

B. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement. Notwithstanding the foregoing: (1) Substantial Completion Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for delay in achieving Substantial Completion of the Train 2 Expansion, (2) the Record As-Built Delivery Requirement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving the Record As-Built Delivery Requirement, (3) the RLFC Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in readiness to load the LNG Tanker as set forth in Section 11.1D and (4) the MCHE Replacement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving Substantial Completion due to an MCHE Replacement Scenario.

20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF

PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES; *PROVIDED THAT* THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 20.5 SHALL NOT APPLY: (I) TO THE DELAY LIQUIDATED DAMAGES SET OUT IN SECTION 13.2; (II) TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS BROUGHT BY ANY THIRD PARTY; OR (III) WHERE CONSEQUENTIAL DAMAGES ARE EXPRESSLY PERMITTED UNDER SECTION 20.4A. FOR THE PURPOSES OF THIS SECTION 20.5, THE TERM "THIRD PARTY" SHALL MEAN ANY PERSON OTHER THAN CONTRACTOR, OWNER OR ANY OF THEIR RESPECTIVE AFFILIATES. AS USED IN THIS SECTION 20.5, OWNER SHALL MEAN THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR SHALL MEAN THE CONTRACTOR INDEMNIFIED PARTIES AND CONTRACTOR'S SUBCONTRACTORS AND SUB-SUBCONTRACTORS.

20.6 **Owner Separate Contracts**. In any separate contract which Owner enters into after the Effective Date with technical consultants and contractors (other than Contractor) for the construction of the Train 2 Expansion, Owner shall use reasonable efforts to provide that indemnities running to the benefit of Owner in such contracts shall also run to the benefit of Contractor.

20.7 **Continuing Rights and Obligations**. Owner and Contractor agree that (i) FLIQ CF, FLEX, FLNG Development, FLIQ2 and each of their Affiliates, (ii) any present holder of any ownership interest in the Train 2 Expansion or this Agreement, (iii) any future recipient of any ownership interest in the Train 2 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.

20.8 **Application of Liability Limitations**.

A. Except to the extent prohibited by the governing law specified in Section 21.9, or as stated in the terms of this Agreement, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability and indemnities expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract or otherwise of the Person released or whose liability is waived, disclaimed, limited, fixed or indemnified.

B. Except as specifically stated in Section 8.2A.1 (with respect to the policy deductibles for builder's risks or marine cargo insurance), no liabilities incurred by Contractor arising from the Train 1 EPC Agreement (including any delay liquidated damages assessed thereunder) shall accrue against any limitations of liability under this Agreement (including the limitations of liability set forth in Sections 20.1 and 20.3). Conversely, no liabilities incurred by Contractor arising under this Agreement (except the aforementioned portion of Section 8.2A.1), including any Delay Liquidated Damages assessed hereunder, shall accrue against any limitations of liability under the Train 1 EPC Agreement.

ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 **Entire Agreement**. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, and the Equipment Sharing Agreement (once executed) contain the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto; *provided that*, with respect to the Common Development Work, the Train 1 EPC Agreement, the Equipment Sharing Agreement and this Agreement, collectively, contain the entire understanding of the Parties and incorporate any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement or the Equipment Sharing Agreement or, with respect to the Common Development Work, the Train 1 EPC Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no applicability to Owner with respect to this Agreement. Notwithstanding anything to the contrary herein, with respect to the FEED Agreement, this Agreement and the Equipment Sharing Agreement supersede such FEED Agreement only to the extent of the work performed under the FEED Agreement that relates to the Scope of Work under this Agreement. All Work performed under the FEED Agreement and any other agreements between the Parties relating to the Scope of Work under this Agreement shall be governed by the terms and conditions set forth in this Agreement and the Equipment Sharing Agreement and, with respect to the Common Development Work, the Train 1 EPC Agreement. For purposes of clarity, the FEED Agreement shall remain effective as to any work performed thereunder that is not related to the Scope of Work under this Agreement (including that work relating to a third liquefaction train, and its corresponding pretreatment facilities, that may be located at or near the Site).

21.2 **Amendments**. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1C or Section 6.2D, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 **Joint Effort**. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

21.4 **Captions**. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.5 **Notice**. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be either (i) hand delivered; (ii) delivered by same-day or overnight courier; (iii) delivered by facsimile with written confirmation of complete transmittal; or (iv) delivered by certified mail, return receipt requested, to the other Party at the address set forth below.

A. If delivered to Owner:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: Mark Mallett

with a copy to:

FLNG Liquefaction, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: General Counsel

B. If delivered to Contractor:

CB&I/Zachry Joint Venture
c/o CB&I Inc.
6001 Rogerdale
Houston, Texas 77072
Facsimile: 713-485-1005
Attn: Chet Lloyd

with a copy to:

CB&I Inc.
2103 Research Forest Blvd.
The Woodlands, Texas 77380
Facsimile: 832-513-1591
Attn: General Counsel

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed to be received: (1) if delivered by hand, by same-day or overnight courier service, or certified mail on the date actually received at the address of the intended recipient; or (2) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.

21.6 **Severability**. The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

21.7 **Assignment**. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except Owner may assign this Agreement, in whole or part, to any of its Affiliates or any of its co-venturers or to any Person who acquires an ownership interest in Owner or the Train 2 Expansion. Furthermore, Owner may assign, pledge and/or grant a security interest in this Agreement that Owner has or which shall hereafter arise in and to Owner and all claims resulting from any failure of performance with any provision of this Agreement to any Lender without Contractor's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.7 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.7 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for Default.

21.8 **No Waiver**. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.9 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, 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 Agreement and shall be disclaimed in and excluded from any Subcontracts entered into by Contractor in connection with the Work or the Train 2 Expansion.

21.10 **Successors and Assigns**. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

21.11 **Attachments and Schedules**. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

21.12 **Obligations**. Nothing contained in this Agreement shall be construed as constituting a joint venture or partnership between Contractor and Owner.

21.13 **Further Assurances**. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. In addition, Contractor agrees to cooperate with any Lender (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement, (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not adversely affect the rights, obligations and liability limitations of Contractor hereunder and Contractor's entitlement to payment in accordance with this Agreement, and (iv) to take such action or execute such documentation as any Lender shall reasonably require.

21.14 **Priority**. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority:

A. Change Orders or written amendments to this Agreement;

B. this Agreement; and

C. Attachments and Schedules to this Agreement.

21.15 **Restrictions on Public Announcements**. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs of any part of the Facility (except as may be included in a Monthly Progress Report) or (ii) publicly refer to the Work, the Train 2 Project or any part of the Facility in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work, the Train 2 Project or any part of the Facility without the prior written consent of Owner (which shall not be unreasonably withheld). Under no circumstance shall Contractor permit access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner.

21.16 **Parent Guarantee**. CB&I Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Zachry Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. The guarantee contained in this Section 21.16 is unconditional and irrevocable. Each of the guarantees provided by CB&I Guarantor and Zachry Guarantor are individually referred to as a "***Parent Guarantee***" and collectively as "***Parent Guarantees***."

21.17 **Foreign Corrupt Practices Act**. With respect to the performance of the Work, each Party shall, and shall cause each of its contractors (or, in the case of Contractor, its Subcontractors and Sub-subcontractors), and the agents and employees of each of them to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2), as amended (or, if such act is not applicable to a Person, to act in such manner that would comply with the provisions of such act were it applicable to such Person). Neither Party shall take any action that could result in the other Party or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such Act and shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties, in order to obtain or maintain business.

21.18 **Language**. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language, unless otherwise directed by Owner in writing.

21.19 **Counterparts**. This Agreement may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by each of the Parties. Facsimile signatures shall be deemed as effective as original signatures.

21.20 **Owner's Lender(s)**. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain financing for or in connection with the Train 2 Project and Contractor agrees to cooperate with Owner and any Lender in connection with such financing (and any refinancing), including delivering, as a condition to any such financing or refinancing, such documentation and information as is customary for a financing or refinancing of such type and entering into direct agreements with such Lender, as required by such Lender, covering matters that are customary in a financing or refinancing of such type, including: Lender assignment or security rights with respect to this Agreement; opinions; direct notices to Lender, with applicable cure periods, prior to any termination, suspension or other similar action; step-in/step-out rights; an obligation on the Parties not to amend the Agreement without Lender's consent; access by such Lender's representative and other matters applicable to such financing or refinancing. Contractor acknowledges and agrees that Owner's issuance of NTP is contingent upon obtaining such non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner may terminate this Agreement for convenience in accordance with Section 16.2.

21.21 **Joint and Several Liability**. Contractor is a joint venture comprised of: (i) CB&I Inc., a Texas corporation ("***CB&I***") and (ii) Zachry Industrial, Inc., a Delaware corporation ("***Zachry***"). CB&I and Zachry agree on behalf of themselves and their respective insurers and guarantors to be jointly and severally responsible and liable to Owner for all of Contractor's duties and obligations under this Agreement and for all claims, damages, costs, expenses and all other liability arising out of or relating to the performance or failure to perform any of Contractor's duties or obligations under this Agreement or otherwise arising out of the Train 2 Project.

21.22 **Coordination Between this Agreement and Train 1 EPC Agreement**.

A. ***Administrative Coordination***. Owner and Contractor acknowledge that Owner and FLIQ1 are concurrently (but separately) developing and financing the Train 2 Expansion and Train 1 Expansion, respectively, and that Contractor is providing the turnkey engineering, procurement and construction services for both the Train 2 Expansion and the Train 1 Expansion in accordance with this Agreement and the Train 1 EPC Agreement. Notwithstanding the separate agreements under which the Train 1 Expansion and Train 2 Expansion will be developed, the Parties intend to use commercially reasonable efforts to minimize administrative duplication and expense where reasonably practicable.

B. ***Coordination of Contractor's Work and Effects of Contractor's Acts or Omissions between this Agreement and the Train 1 EPC Agreement***. Contractor

acknowledges that Contractor, in accordance with the Train 1 EPC Agreement, will design, engineer, procure, construct, pre-commission, commission, start-up and test the Train 1 Expansion while concurrently performing the Work under this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor further acknowledges that any work performed by (or on behalf of) Contractor under the Train 1 EPC Agreement (as such agreement may be modified from time to time in accordance with the terms thereof), as well as any acts or omissions of Contractor, or any of its subcontractors or sub-subcontractors in connection with the Train 1 EPC Agreement or Train 1 Expansion, shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 2 Project Schedule or any other Changed Criteria under this Agreement unless such circumstance relates to the Common Development Work and also entitles Contractor to a Change Order under Section 6.2A herein.

C. ***Coordination of FLIQ1 Directives under the Train 1 EPC Agreement***. The Parties agree and acknowledge that no act, instruction or direction by FLIQ1, or anyone acting for or on behalf of FLIQ1 under the Train 2 EPC Agreement, shall entitle Contractor to any modification of the Contract Price, Train 2 Project Schedule or any other Changed Criteria under this Agreement unless (i) such instruction or direction relates to the Common Development Work and is approved by Owner in writing (which such written approval may come in the form of Owner providing substantially identical instruction or direction in accordance with this Agreement) or (ii) the instruction or direction originates from a change order request by FLIQ1 under the Train 1 EPC Agreement for which Contractor provides timely notice to Owner under Section 6.3 and that is ratified by Owner pursuant to Section 6.3.

D. ***Coordination of Relief to Contractor as a Result of Force Majeure Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that an event of "Force Majeure" (as defined in the Train 1 EPC Agreement) which only directly impacts the Train 1-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 2 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 2 Project Schedule to the extent allowed under, and in accordance with, Section 6.8 (including, as required by such Section 6.8, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

E. ***Coordination of Relief to Contractor as a Result of Certain Owner-Assumed Risks Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that a circumstance providing Contractor with relief under Section 6.9 of the Train 1 EPC Agreement which only directly impacts the Train 1-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 2 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 2 Project Schedule to the extent allowed under, and in accordance with, Section 6.9 of this Agreement (including, as required by such Section 6.9, Contractor's compliance with the notice and Change Order request requirements in Section 6.6 and the mitigation requirements in Section 6.11).

F. ***Limitation of Rights and Relief between this Agreement and the Train 2 EPC Agreement***. Except as set forth in this Section 21.22, and for purposes of clarity, any event or circumstance entitling Contractor to a change order under the Train 1 EPC Agreement shall not, in and of itself, entitle Contractor to a Change Order under this Agreement unless such event or circumstance, separately, entitles Contractor to a Change Order under Section 6.2A.

21.23 **Survival**. Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 16, Article 17, Article 18 and Article 19, Article 20, Sections 3.6, 3.8, 3.13, 3.14, 3.17, 4.5, 4.6, 8.1, 8.2, 11.10, 21.1, 21.9, 21.16, 21.21 and this Section 21.23 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Owner:

FLNG LIQUEFACTION 2, LLC

By: Freeport LNG Expansion, L.P., its sole member

By: Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

Contractor:

ZACHRY INDUSTRIAL, INC.

By:_____
Name: John B. Zachry
Title: Chief Executive Officer

CB&I INC.

By: _____
Name: Philip Asherman
Title: Chief Executive Officer

Acknowledged by Freeport LNG Expansion, L.P., but only for purposes of partially superseding the FEED Agreement pursuant to Section 21.1.

FREEPORT LNG EXPANSION, L.P.

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

[Signature Page Continues]

Acknowledged by FLIQ Common Facilities, LLC, but only for purposes of: (i) having the right, but not the obligation, to make payments to Contractor pursuant to Section 7.14, (ii) taking title to the Work pursuant to Section 8.1, (iii) gaining rights in Work Product related to the Common Development Work pursuant to Section 10.1, and (iv) granting Contractor a license in certain Work Product pursuant to Section 10.3.

FLIQ COMMON FACILITIES, LLC

By Freeport LNG Expansion, L.P., its sole member

By Freeport LNG Expansion GP, Inc., its general partner

By:_____
Name: Michael Smith
Title: Chief Executive Officer

EXHIBIT D

Execution Version

PARENT GUARANTEE

This GUARANTEE (this "***Guarantee***"), dated as of **December 10, 2013**, is made by Zachry Holdings, Inc., a Delaware corporation ("***Guarantor***"), in favor of FLNG Liquefaction 2, LLC, a Delaware limited liability company ("***Owner***," and, together with Guarantor, each a "***Party***" and, collectively, the "***Parties***"). Capitalized terms used, but not otherwise defined, herein shall have the respective meanings ascribed to such terms in the Agreement (as defined below).

RECITALS

WHEREAS, Owner has agreed to enter into the Fixed Price Separated Turnkey Agreement for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project, dated **December 10, 2013**, with Zachry Industrial, Inc. and CB&I Inc. (collectively under a joint venture agreement, the "***Contractor***") for the engineering, procurement, construction, commissioning, start-up and testing of a natural gas pretreatment, liquefaction, storage and LNG loading terminal located near Freeport, Texas (the "***Agreement***"), which is hereby incorporated by reference in this Guarantee and made a part hereof; and

WHEREAS, Guarantor is the parent company of Zachry Industrial, Inc., which is a member of the joint venture that comprises the Contractor; and

WHEREAS, it is a condition to Owner and Contractor's entering into the Agreement that Guarantor execute and deliver this Guarantee.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Guarantee.

(a) On the terms and subject to the conditions contained herein, Guarantor hereby absolutely, unconditionally and irrevocably guarantees, to and for the benefit of Owner, the full and punctual performance and payment as and when such payment or performance becomes due (whether at the stated due date, by acceleration or otherwise), by or on behalf of Contractor of any and all obligations or amounts owed by Contractor to Owner in connection with and to the extent provided for in the Agreement (the "***Guaranteed Obligations***"). The Guaranteed Obligations of Guarantor hereunder are direct and primary obligations.

(b) This Guarantee is an absolute, unconditional, present, and continuing guarantee of performance and payment, and not of collection, is in no way conditioned or contingent upon any attempt to collect from or enforce performance or payment by Contractor or upon any other event, contingency or circumstance whatsoever, and shall remain in full force and effect and be binding upon and against Guarantor and its successors and permitted assigns (and shall inure to the benefit of Owner and its successors, endorsees, transferees, and permitted assigns). If, for any reason, Contractor shall fail or be unable duly, punctually, and fully to perform or pay, as and when such performance or payment is due, any of the Guaranteed Obligations, Guarantor shall promptly perform or pay, or cause to be performed or paid, such Guaranteed Obligations.

(c) Guarantor agrees that any judgment between Contractor and Owner under the Agreement (whether in contested litigation or arbitration, by default or otherwise) shall be conclusive and binding on the Parties for the purposes of determining Guarantor's obligations under the Guarantee.

2. Obligations Absolute and Unconditional, Continuing; Etc. Guarantor agrees that the obligations of Guarantor set forth in this Guarantee shall be direct obligations of Guarantor, and such obligations shall be absolute, irrevocable and unconditional, shall not be subject to any counterclaim, set-

2. **Obligations Absolute and Unconditional, Continuing; Etc.** Guarantor agrees that the obligations of Guarantor set forth in this Guarantee shall be direct obligations of Guarantor, and such obligations shall be absolute, irrevocable and unconditional, shall not be subject to any counterclaim, set-off, deduction, diminution, abatement, recoupment, suspension, deferment, reduction or defense (other than full and strict compliance with its obligations hereunder) based upon any claim Guarantor or any other Person may have against Owner or any other Person and shall remain in full force and effect without regard to and shall not be released, discharged or in any way affected or impaired by, any circumstance or condition whatsoever (other than full and strict compliance by Guarantor with its obligations hereunder) (whether or not Guarantor shall have any knowledge or notice thereof), including, without limitation: (i) any amendment or modification of or supplement to or other change in the Agreement or any other document, including, without limitation, any change order, renewal, extension, acceleration or other changes to payment terms thereunder; (ii) any failure, omission or delay on the part of Owner or any other Person to confirm or comply with any term of the Agreement or any other document, (iii) any exercise or non-exercise of any right, remedy, power, or privilege under or in respect of any such instrument or agreement or any such obligation or liability; (iv) any bankruptcy, insolvency, reorganization, arrangement, readjustment, liquidation, or similar proceeding with respect to Owner, Contractor or any other Person or any of their respective properties, or any action taken by any trustee or receiver or by any court in any such proceeding; (v) any merger or consolidation of Guarantor, Contractor or any other Person into or with any other Person or any sale, lease or transfer of all or any of the assets of Guarantor, Contractor or any other Person; (vi) any change in the ownership of Guarantor, Contractor, or any other Person; (vii) any winding up or dissolution of Contractor; or (viii) to the extent permitted under Applicable Law, any other occurrence or circumstance whatsoever, whether similar or dissimilar to the foregoing, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of guarantor or surety or which might otherwise limit recourse against Guarantor. The Guaranteed Obligations constitute the full recourse obligations of Guarantor enforceable against it to the full extent of all its assets and properties. Without limiting the generality of the foregoing, Guarantor agrees that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, Contractor shall fail to perform obligations or pay amounts owed by Contractor under the Agreement and that notwithstanding the recovery hereunder for or in respect of any given failure to so comply by Contractor under the Agreement, this Guarantee shall remain in full force and effect and shall apply to each and every subsequent such failure. Guarantor's obligations and liability under this Guarantee shall not exceed the obligations and liabilities of Contractor under the Agreement, including, without limitation, Contractor's limitations of liability set forth in Article 20 of the Agreement; *provided that*, the foregoing statement shall not be interpreted to relieve Guarantor of any Guaranteed Obligations or preclude any remedy available to Owner due to any of the circumstances in Sections 2(a)(iv) or 2(a)(vii) above.

3. **Reinstatement.** Guarantor agrees that this Guarantee shall be automatically reinstated with respect to any payment made by or on behalf of Contractor pursuant to the Agreement if and to the extent that such payment is rescinded or must be otherwise restored, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

4. **Waiver of Demands, Notices; Etc.** Guarantor hereby unconditionally waives, to the extent permitted by Applicable Law: (i) notice of any of the matters referred to in Section 2 hereof; (ii) all notices which may be required by Applicable Law, or otherwise, now or hereafter in effect, to preserve any rights against Guarantor hereunder, including, without limitation, any demand, proof, or notice of non-payment or non-performance of any Guaranteed Obligation; (iii) notice of acceptance of this Guarantee, demand, protest, presentment, notice of failure of performance or payment, and any requirement of diligence; and (iv) any requirement to exhaust any remedies or to mitigate any damages resulting from failure of performance or payment by Contractor under the Agreement or by any other Person under the terms of the Agreement.

5. No Subrogation. Notwithstanding any performance, payment or payments made by Guarantor hereunder (or any set-off or application of funds of Guarantor by Owner), Guarantor shall not be entitled to be subrogated to any of the rights of Contractor (or of any rights of Owner hereunder), or any collateral, security, or guarantee or right of set-off held by Owner, for the performance or payment of the obligations guaranteed hereunder, nor shall Guarantor seek or be entitled to assert or enforce any right of contribution, reimbursement, indemnity or any other right to payment from Contractor as a result of Guarantor's performance of its obligations pursuant to this Guarantee until all Guaranteed Obligations are performed or paid in full. If any amount shall be paid to Guarantor on account of such subrogation, contribution, reimbursement or indemnity rights at any time when all of the Guaranteed Obligations and all amounts owing hereunder shall not have been performed and paid in full, such amount shall be held by Guarantor in trust for Owner, segregated from other funds of Guarantor, and shall, forthwith upon receipt by Guarantor, be turned over to Owner in the exact form received by Guarantor (duly endorsed by Guarantor to Owner, if required), to be applied against the Guaranteed Obligations, whether or not matured, in such order as Owner may determine.

6. Representations and Warranties. Guarantor represents and warrants that:

(a) it is a corporation duly organized and validly existing under the laws of the Delaware and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guarantee;

(b) the execution, delivery and performance of this Guarantee will not conflict with, violate or breach the terms of any agreement of Guarantor;

(c) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guarantee; and

(d) this Guarantee, when executed and delivered, will constitute a valid and legally binding agreement of Guarantor, except as the enforceability of this Guarantee may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity as they apply to the Guarantor.

7. Miscellaneous.

(a) This Guarantee shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. Guarantor may not assign or transfer this Guarantee or any rights or obligations hereunder without Owner's prior written consent. Owner shall have the same rights of assignment of this Guarantee as it has for the Agreement as set forth in Section 21.7 of the Agreement, including the rights to grant a security interest in this Guarantee to any Lender. Except as otherwise provided in this Section 7, nothing herein, express or implied, is intended or shall be construed to confer upon or to give to any Person other than the Parties hereto any rights, remedies, or other benefits.

(b) This Guarantee shall be governed by, and construed in accordance with, the laws of the State of Texas, without giving effect to the principles thereof relating to conflicts of law.

(c) The Parties agree that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with, or relating in any way to this Guarantee (including, without limitation, the construction, validity, interpretation, termination, enforceability or breach of this Guarantee, the relationship of the Parties established by this Guarantee, or any dispute over jurisdiction) ("***Dispute***") shall be decided by litigation pursuant to this Section 7(c). Each Party (i) irrevocably submits to the

exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Guarantee, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail in accordance with the notice provisions of this Guarantee, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. At Owner's sole option, Contractor may be joined in the litigation between Owner and Guarantor, or Guarantor shall be required to join any litigation between Owner and Contractor under the Agreement. In addition, at Owner's sole option, any other Person may be joined as an additional party to any litigation conducted under this Section 7(c), *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. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdictions.

(d) No modification or amendment of this Guarantee shall be of any force or effect unless made in writing, signed by the Parties hereto, and specifying with particularity the nature and extent of such modification or amendment. This Guarantee constitutes the entire and only understanding and agreement among the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior negotiations, proposals, representations, understandings, commitments, communications, or agreements, whether oral or written, with respect to the subject matter hereof.

(e) All notices, demands, offers, requests and other written instruments required or permitted to be given pursuant to this Guarantee shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by overnight courier, messenger, facsimile or certified mail, return receipt requested, to the other Parties at the address set forth below.

If to Owner:

FLNG Liquefaction 2, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Attn: Mark Mallett
Facsimile: 713-980-2903

with a copy to:

FLNG Liquefaction 2, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Attn: General Counsel
Facsimile: 713-980-2903

If to Guarantor:

Zachry Holdings, Inc.
527 Logwood
San Antonio, Texas 78221
Attn: Kirk McDonald
Facsimile: 210-588-5380
Telephone No.: 210-588-5824

with a copy to:

Zachry Holdings, Inc.
527 Logwood
San Antonio, Texas 78221
Attn: General Counsel
Facsimile: 210-588-6528

Each Party shall have the right to change the place to which such notices shall be sent or delivered by sending a similar notice to the other Parties in like manner. Notices, demands, offers, requests or other written instruments shall be deemed to have been duly given on the date actually received by the intended recipient, provided that if the day of receipt is not a Business Day then it shall be deemed to have been received on the next succeeding Business Day.

(g) The headings of the several provisions of this Guarantee are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Guarantee.

(h) No forbearance or delay by Owner in asserting rights against Contractor shall affect or impair in any way Guarantor's obligations hereunder or the rights of Owner hereunder.

(i) In addition to other assurances provided in this Guarantee, Guarantor acknowledges that Owner intends to obtain financing associated with the Train 2 Project and Guarantor agrees to cooperate with Owner and Lender in connection with such financing, including, but not limited to, entering into direct agreements with Lender, as required by Lender, covering matters that are customary in financings of this type such as Lender assignment or security rights with respect to this Guarantee, direct notices to Lender, step-in/step-out rights, access by Lender's representative (including its independent engineer) and other matters applicable to such financing.

(j) The term "***Person***" shall mean any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, governmental entity or other entity having legal capacity.

(k) This Guarantee may be executed in any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have duly executed this Guarantee as of the date first above written.

ZACHRY HOLDINGS, INC.

By: _____
Name: D. KIRK McDONALD
Title: Executive Vice President

FLNG LIQUEFACTION 2, LLC

By: _____
Name: Michael Smith
Title: Chief Executive Officer

ACKNOWLEDGED BY SUBSIDIARY:

ZACHRY INDUSTRIAL, INC.

By: _____
Name: Ralph B. Liedtke
Title: President

EXHIBIT 11

Proof of Claim No. 1523

Your claim can be filed electronically on Verita's website at https://www.veritaglobal.net/zhi

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

United States Bankruptcy Court for the Southern District of Texas, Houston Division

Indicate Debtor against which you assert a claim by checking the appropriate box below. (**Check only one Debtor per claim form.**)

☒ Zachry Holdings, Inc. (Case No. 24-90377)	☐ Zachry Constructors, LLC (Case No. 24-90384)	☐ Zachry Maintenance Services, LLC (Case No. 24-90395)
☐ Computer Simulation & Analysis, Inc. (Case No. 24-90391)	☐ Zachry Engineering Corporation (Case No. 24-90379)	☐ Zachry Nuclear Construction, Inc. (Case No. 24-90388)
☐ J.V. Industrial Companies, LLC (Case No. 24-90396)	☐ Zachry Enterprise Solutions, LLC (Case No. 24-90386)	☐ Zachry Nuclear Engineering, Inc. (Case No. 24-90390)
☐ JVIC Fabrication, LLC. (Case No. 24-90393)	☐ Zachry EPC Holdings, LLC (Case No. 24-90378)	☐ Zachry Nuclear, Inc. (Case No. 24-90389)
☐ Madison Industrial Services Team, LLC (Case No. 24-90397)	☐ Zachry High Voltage Solutions, LLC (Case No. 24-90381)	☐ Zachry Plant Services Holdings, Inc. (Case No. 24-90392)
☐ Moss Point Properties, LLC (Case No. 24-90387)	☐ Zachry Industrial Americas, Inc. (Case No. 24-90394)	☐ ZEC Michigan, Inc. (Case No. 24-90383)
☐ UE Properties, Inc. (Case No. 24-90382)	☐ Zachry Industrial, Inc. (Case No. 24-90385)	☐ ZEC New York, Inc. (Case No. 24-90380)

Modified Official Form 410

Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed, May 21, 2024.

Part 1: Identify the Claim

1. **Who is the current creditor?**

FLNG Liquefaction 3, LLC
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☒ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

(see addendum for full notice list)

Where should notices to the creditor be sent?

FLNG Liquefaction 3, LLC
Name
333 Clay Street, Suite 5050
Number Street
Houston, TX 77002-4173
City State ZIP Code
United States of America
Country
Contact phone 713-980-2888
Contact email sottis@freeportlng.com

Where should payments to the creditor be sent? (if different)

Name
Number Street
City State ZIP Code
Country
Contact phone _____
Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☒ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**

☒ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ Undetermined. **Does this amount include interest or other charges?**

☐ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

If applicable, the claim must include information regarding payment received from any third party on account of, in connection with, or otherwise relating to the claim. Please list such information in the supporting documentation to the claim.

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Guarantee of contractual obligations - see attached addendum

IMPORTANT - Please review enclosed Claim Summary Request Form and return with your Proof of Claim

9. **Is all or part of the claim secured?**

☒ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☒ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☒ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/13/2024
MM / DD / YYYY

Shaw Ottis
Digitally signed by Shaw Ottis
Date: 2024.09.13 14:45:19 -05'00'
Signature

Print the name of the person who is completing and signing this claim:

Name: Shaw (First name) Christopher (Middle name) Ottis (Last name)

Title: SVP, General Counsel & Secretary

Company: FLNG Liquefaction 3, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 333 Clay St., Suite 5050
Number Street

Houston (City) TX (State) 77002 (ZIP Code) USA (Country)

Contact phone: 713-980-2894 Email: sottis@freeportlng.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*,[1]	Case No. 24-90377 (MI)
Debtors.	(Jointly Administered)

ADDENDUM TO PROOF OF CLAIM OF FLNG LIQUEFACTION 3, LLC

FLNG Liquefaction 3, LLC ("FLNG 3") hereby submits this addendum to its Proof of Claim (the "Claim") against Zachry Holdings, Inc. ("Zachry Holdings") and respectfully states as follows:

Background

1. On April 23, 2024, FLNG 3 and affiliated entities filed suit in the 133rd Judicial District Court of Harris County, Texas (the "State Court"), asserting a state law breach of contract claim against Zachry Industrial Inc. ("Zachry Industrial"), CB&I, Inc., and Chiyoda International Corporation after discovering significant defects in the performance of their work on a natural gas liquefaction and liquified natural gas export facility, resulting in substantial costs, the shut-down of operations, and other damages (the "Facilities Defects Case"). **Exhibit B**.

2. On May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, jointly administered under Case No. 24-90377.

3. On July 31, 2024, Zachry Industrial removed the Facilities Defects Case from State

[1] The debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://veritaglobal.net/zhi. The Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

Court to the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. 1452(a).

4. On August 28, 2024, the Facilities Defects Case was referred to this Court. The Facilities Defects Case is yet to be adjudicated.

5. FLNG 3's Claim against Zachry Holdings is predicated on guarantee obligations by Zachry Holdings under the *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* (the "EPC") dated March 24, 2015. *See* **Exhibit C**. Pursuant to Article 21.16 and the Parent Guarantee [2] to the EPC, Zachry Holdings unconditionally and irrevocably guarantees the full and faithful performance of all obligations of Zachry Industrial under the EPC.

6. Because of the voluminous nature of the documents supporting this Claim, the fact that such documents contain confidential or commercially sensitive information, and based on consent from the Debtors, not all such documents are annexed hereto. FLNG 3 has made or will make such documents available to the Debtors. Such documents will also be made available to the Official Committee of Unsecured Creditors upon written request and subject to appropriate confidentiality restrictions.

Reservation of Rights

7. FLNG 3 does not waive, and expressly reserves, (i) all rights and remedies at law or in equity that FLNG 3 has or may have against Zachry Holdings, any of the Debtors, any of their respective affiliates and subsidiaries, or any other person or entity who may be liable for all

[2] *See* **Exhibit D**.

or part of the claims set forth herein; (ii) any obligation owed to FLNG 3 or any right to any security or to assert any security interest that may be determined to be held by FLNG 3; (iii) FLNG 3's right to have final orders in non-core matters, or core matters to which *Stern v. Marshall* applies, entered only after *de novo* review by a United States District Court Judge; and (iv) any right to (a) withdraw the reference, or otherwise challenge the jurisdiction of the Court, with respect to the subject matter of the Claim, any objection or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 3, (b) assert that the reference has already been withdrawn with respect to the subject matter of the Claim, any objection or other proceeding commenced with respect thereto or any other proceeding commenced in these chapter 11 cases against or otherwise involving FLNG 3, or (c) seek adjudication of its Claim in any court of competent jurisdiction on any basis, including mandatory abstention, permissive abstention, or equitable remand.

8. The filing of this Claim is not, nor shall it be deemed or construed to be: (i) a waiver or release of any term or provision of any agreement between FLNG 3 and Zachry Holdings or any agreement governing the relationship between FLNG 3 and Zachry Holdings; (ii) an election of remedies or waiver of any past, present or future breaches of any agreement between FLNG 3 and Zachry Holdings or any agreement governing the relationship between FLNG 3 and Zachry Holdings; (iii) a waiver or limitation of any procedural or substantive rights of FLNG 3 or any procedural or substantive defenses to any claim that may be asserted against FLNG 3; (iv) a waiver or release of, or any other limitation on, FLNG 3's right to assert that any portion of the claims asserted herein or any other claims are entitled to priority, including, without limitation, under sections 503(b) and 507(a)(2) of the Bankruptcy Code; (v) a waiver of any right to claim specific assets; or (vi) a waiver or release of any lien or security interest. In addition, FLNG 3 reserves the

right to withdraw this Claim in its entirety or with respect to any portion thereof for any reason whatsoever.

9. FLNG 3 expressly reserves the right to (i) amend, modify, update, or supplement the Claim at any time and in any respect, including, without limitation, as necessary or appropriate to amend, quantify, or correct amounts, to provide additional detail regarding the claims set forth herein, to fix the amount of any disputed, contingent or unliquidated claim, or to assert any alternative theories or bases for recovery; (ii) file additional proofs of claim, administrative expense claims or requests for payment of any administrative expenses, or pleadings for additional claims that may be based on the same or additional documents; and (iii) assert any and all other claims, actions, defenses, setoffs, recoupments, rights, right of action, causes of action, claims or remedies of whatever kind or nature that it currently has, or may have in the future against the Debtors and/or any of their respective affiliates and subsidiaries, or any other person or entity (including, without limitation, guarantors, partners, officers, directors, and other creditors of the Debtors), at law or in equity, including, without limitation, administrative or other priority claims, lien rights, interests, and the right to assert claims that are otherwise warranted in any related actions. This Claim is filed without prejudice to the filing by FLNG 3 of additional proofs of claim or administrative expense claims with respect to any other liability or indebtedness of and/or equity interest in the Debtors.

10. FLNG 3 does not waive or release any of its rights to amounts due for any claim asserted herein by not ascribing a specific dollar amount thereto at this time, and FLNG 3 expressly reserves the right to amend or supplement this Claim if it deems it necessary or appropriate, to assert and state an amount for any such claim.

11. The Claim is not subject to objection, defense, setoff, recoupment, or counterclaim

of any kind by the Debtors. FLNG 3 expressly reserves and does not waive any objections, defenses, rights of set-off or recoupment, or counterclaims, that it may possess. No judgment has been rendered on the Claim.

12. By filing this Claim, FLNG 3 does not consent to or submit itself to the jurisdiction of the Court for any purpose except in respect of the allowance of this Claim for any and all amounts due in connection herewith.

Notices

13. All notices, communications, and distributions in respect of this Claim should be delivered to:

FLNG Liquefaction, LLC
333 Clay St., Suite 5050
Houston, TX 77002
Attention: Shaw Christopher Ottis
Phone: 713-980-2894
Email: sottis@freeportlng.com

And

Christopher Taylor
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2058
Email: ctaylor@kslaw.com

Mike Stenglein
500 W 2nd St., #1800
Austin, TX 78701
Phone: (512) 457-2003
Email: mstenglein@kslaw.com

Michael Fishel
King & Spalding LLP
1100 Louisiana, Suite 4100
Houston, TX 77002
Phone: (713) 276-7369
Email: mfishel@kslaw.com

EXHIBIT B

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

Cause No. _____

FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	**_____ JUDICIAL DISTRICT**
v.	§	
CB&I INC.; ZACHRY INDUSTRIAL, INC.; AND CHIYODA INTERNATIONAL CORPORATION	§	**HARRIS COUNTY, TEXAS**
Defendants.	§	

PLAINTIFFS' ORIGINAL PETITION

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this Original Petition against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, 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.

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III. DISCOVERY LEVEL

3. This case is intended to be conducted under Discovery Level 3 in accordance with Texas Rule of Civil Procedure 190.4.

IV. PARTIES

4. Plaintiff FLNG Liquefaction, LLC ("FLIQ1") is a Delaware limited liability company with its principal place of business in Houston, Texas.

5. Plaintiff FLNG Liquefaction 2, LLC ("FLIQ2") is a Delaware limited liability company with its principal place of business in Houston, Texas.

6. Plaintiff FLNG Liquefaction 3, LLC ("FLIQ3") is a Delaware limited liability company with its principal place of business in Houston, Texas.

7. Defendant CB&I Inc. ("CB&I") is a Texas corporation with its principal place of business in Houston, Texas. CB&I may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Zachry Industrial, Inc. ("Zachry") is a Delaware corporation with its principal place of business in San Antonio, Texas. Zachry may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Chiyoda International Corporation ("Chiyoda") is a Washington corporation with its principal place of business in Houston, Texas. Chiyoda may be served with process through its registered agent C T Corporation, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

V. JURISDICTION & VENUE

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.020 because the written agreements at issue involve "major transactions" as defined

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under the statute, and the parties agreed to venue in Harris County. Specifically, the agreements at issue provide that each party "irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas."

11. This Court has subject matter jurisdiction over this dispute because the amount in controversy is within the jurisdictional limits of this Court.

12. This Court has personal jurisdiction over Defendants because they are citizens of Texas by virtue of having their principal places of business in Texas. Further, Defendants conduct business in Texas, including but not limited to, by entering into contractual relationships and performing work in Texas and maintaining offices and employees in Texas. Defendants have purposefully availed themselves of the benefits and protections of the State of Texas by establishing minimum contacts here, and this Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

VI. FACTUAL BACKGROUND

A. Freeport LNG's Quintana Island Facility

13. Freeport LNG Development, L.P. ("Freeport LNG") is one of the first and largest exporters of LNG. With its joint venture partners, Freeport LNG owns and operates an LNG facility located on Quintana Island near Freeport, Texas (the "LNG Facility").

14. The LNG Facility was previously an LNG import and regasification facility (the "Regas Facility") featuring two 160,000 cubic meter LNG storage tanks, a marine dock that could accommodate the largest LNG tankers in service, and an LNG vaporization system capable of producing over 2 billion cubic feet (Bcf) of gas per day. Construction on the Regas Facility started in 2005, and commercial operations began in 2008. However, by the time the import terminal commenced operations in 2008, the North American natural gas industry had begun to experience

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a sea change—the shale gas revolution.

15. In 2010, to take advantage of excess domestic natural gas reserves due primarily to improvements in extracting gas from shale, Freeport LNG began a project to transform the Regas Facility from an import terminal into a natural gas liquefaction and LNG export facility (as defined above, the "LNG Facility").

16. LNG is natural gas that is super-cooled to transform it from a gaseous state into a liquid for ease and safety of non-pressurized storage and transport. Natural gas is converted to a liquid in a liquefaction plant that performs a sequence of processes, which is often referred to as "liquefying" the natural gas. This liquefaction process takes place in processing units that are often referred to as "trains."

17. The LNG Facility, which currently has three liquefaction processing units, or trains, is the first world-scale electric-powered LNG plant in North America. Train 1 was commissioned and began commercial operations in December 2019. Train 2 and Train 3 commenced operations in January and May 2020, respectively. When operating at full capacity, the output from the Facility's three liquefaction trains is enough to decrease the United States trade deficit by 1-2% alone.

18. Each liquefaction train at the LNG Facility uses three General Electric 75 MW motors that power three propane and mixed-refrigerant compressors. The electric motors used at the LNG Facility were selected to allow Freeport LNG to comply with strict local air emissions standards and meet its production and export targets.

B. The EPC Contracts

19. FLIQ1, FLIQ2, and FLIQ3 are affiliates of Freeport LNG.

20. FLIQ1 developed the first LNG train ("Train 1"). FLIQ2 developed the second

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LNG train ("Train 2"), and FLIQ3 developed the third LNG train ("Train 3").

21. FLIQ1 and FLIQ2 selected CB&I and Zachry, through a joint venture arrangement, to provide all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 1 and Train 2 on a fixed price, turnkey basis.

22. On December 10, 2013, FLIQ1 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 1 EPC Contract").

23. Also on December 10, 2013, FLIQ2 entered into a Fixed Price Separated Turnkey Agreement with CB&I and Zachry for the Engineering, Procurement and Construction of the Freeport Train 2 Liquefaction Project ("Train 2 EPC Contract").

24. FLIQ3 selected CB&I, Zachry and Chiyoda, through a joint venture arrangement, to provide engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing services for Train 3 on a fixed price, turnkey basis.

25. On March 24, 2015, FLIQ3 entered into a Fixed Price Separated Turnkey Agreement with CB&I, Zachry, and Chiyoda for the Engineering, Procurement and Construction of the Freeport Train 1 Liquefaction Project ("Train 3 EPC Contract").

26. The pertinent provisions of the Train 1 EPC Contract, Train 2 EPC Contract, and Train 3 EPC Contract are virtually identical and are referred to collectively in this Petition as the EPC Contracts. CB&I, Zachry, and Chiyoda, as applicable, are referred to in the EPC Contracts collectively as "Contractor," and will be collectively referred to as "Contractor" in this Petition.

C. Defendants' Obligations Under the EPC Contracts

27. The EPC Contracts establish Contractor's substantive performance standards for the Work. Among other obligations, Defendants agreed to perform all engineering, design,

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manufacturing, and fabrication work for Trains 1, 2, and 3 in accordance with applicable codes and standards and in accordance with good engineering and construction practices.

28. Specifically, Section 2.5C of the EPC Contracts provides that:

> "***Contractor shall perform the Work in accordance*** with Applicable Law and ***Applicable Codes and Standards***, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work." (emphasis added).

29. Section 3.1A of the EPC Contracts provides that:

> "***the Work*** shall be performed on a turnkey basis and ***shall include*** all ***engineering***, ***procurement,*** construction, pre-commissioning, start-up and testing of the Train [1, 2, and 3] Expansion, all ***Equipment***, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, ***workmanship, inspection, manufacture***, ***fabrication***, installation, ***design***, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

30. Section 3.1A of the EPC Contracts further provides that:

> "***Contractor shall perform the Work in accordance with GECP***, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement." (emphasis added).

31. The EPC Contracts define "Good Engineering and Construction Practices" or "GECP" as:

> "***the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards*** employed by the liquefied natural gas engineering and construction industries with respect to: (i) the ***engineering, procurement,*** construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A." (emphasis added).

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32. Section 3.2A of the EPC Contracts provides that Contractor's specific obligations include to "***procure***, supply, transport, handle, properly store, ***assemble***, erect and install all ***Equipment***." (emphasis added).

33. Section 3.2B of the EPC Contracts provides that Contractor's specific obligations include to:

> "provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, ***inspection and quality control services required to ensure that the Work is performed in accordance herewith***." (emphasis added).

34. Section 3.2D of the EPC Contracts requires that the Contractor "perform shop and other inspections of the work of Subcontractors and Sub-subcontractors ***to ensure that such work meets all of the requirements of this Agreement***." (emphasis added).

35. Section 3.2R of the EPC Contracts requires that the Contractor "***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement***, including that specified in Section 3.3." (emphasis added).

36. Section 3.3A of the EPC Contracts provides that:

> "Contractor shall, as part of the Work, ***perform, or cause to be performed, all design and engineering Work in accordance with this Agreement*** and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees." (emphasis added).

37. Section 3.3C(6) of the EPC Contracts provides that:

> "Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and ***in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control***." (emphasis added).

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38. Section 3.3D of the EPC Contracts provides that:

> "***Contractor shall perform***, or cause to be performed, all design and ***engineering work in accordance with Applicable Law and Applicable Codes and Standards***, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law." (emphasis added).

39. Section 8.2B of the EPC Contracts provides that Contractor remains responsible for breaches of its obligations under the EPC Contracts following Substantial Completion:

> "As between Owner and Contractor, Owner shall bear the risk of physical loss and damage to the Train [1, 2, and 3] Expansion and each component thereof … after Substantial Completion of the Train [1, 2, and 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." (emphasis added).

40. Section 12 of the EPC Contracts establishes Contractor's Warranties for its Work. Specifically, under Section 12.1B of the EPC Contracts, Contractor warrants that the Work "including Equipment, and each component thereof" shall be:

> "1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;" "2. ***in accordance with all of the requirements of this Agreement***, ***including in accordance with GECP***, Applicable Law and Applicable Codes and Standards;" and "4. ***free from defects in design, material and workmanship***." (emphasis added).

41. Section 12.1C of the EPC Contracts provides:

> "Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; provided, however, ***Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement***, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as ***Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work***." (emphasis added).

42. Section 12.1C of the EPC Contracts further provides:

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> "All such [Subcontractor and Sub-subcontractor] warranties shall be ***deemed to run to the benefit of Owner*** and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be ***enforceable by Owner upon Substantial Completion***. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit ***direct enforcement by Contractor or Owner*** against any Subcontractor or Sub-subcontractor whose warranty is called for." (emphasis added).

43. Section 12.1C of the EPC Contracts also establishes that:

> "***Contractor is jointly and severally liable*** with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty."

44. Section 12.3 of the EPC Contracts establishes Contractor's obligation to perform Corrective Work during the Defect Correction Period, which is defined as the 18-month period following Substantial Completion. However, Section 12.3D of the EPC Contracts makes clear that Contractor remains responsible to Owner for failures to comply with its Warranties under the EPC Contracts:

> "Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the ***Defect Correction Period*** relates only to the specific obligation of Contractor to perform Corrective Work, and ***has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work***." (emphasis added)

D. Defects in the Trains' Motors

45. While the Project experienced Contractor execution delays and other difficulties, after Trains 1, 2, and 3 began commercial operations, no significant defects in Defendants' work were discovered after the expiration of the 18-month Defect Correction Period until recently.

46. On January 17, 2024, the Train 3 Propane Compressor 75 MW Motor ("75 MW Motor") tripped and remained offline, despite several attempts to restart it. Initial investigations indicated that the likely cause of the trip was an electrical fault within a non-accessible portion of

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the 75 MW Motor. A subsequent root cause analysis ("RCA") determined that the direct cause of the 75 MW Motor failure was an electrical short caused by loose hardware (bolts, nuts and washers) within the 75 MW Motor that dislodged from a protective panel where they were installed and fell into the 75 MW Motor windings.

47. Specifically, the RCA identified the following root causes of the loose hardware:

a. *Deficient bolt/washer/nut retention assembly design*: Design was not in accordance with manufacturer recommendations or Good Engineering and Construction Practices ("GECP"). Specifically, ***locking nuts were not used to ensure that the hardware remained tightened in place*** within the 75 MW Motor during normal operations within vibration integrity limits. Additionally, ***Nord-Lock washers were placed on only one side of the bolt step up***, which we understand ***is not in accordance with manufacturer recommendations*** that require a Nord-Lock washer on both the bolt and nut sides for proper fastening.

b. *Inadequate quality assurance/quality control during assembly*: There was ***defective workmanship during assembly, including the use of improper parts, as well as differing metals for similar parts***. For example, bolt assembly components in the 75 MW Motor were a mixture of stainless steel and carbon steel parts, and a large shim washer was found within the 75 MW Motor and is not an approved material in the bill of materials, nor is the use of shim washers part of the proper design of the bolt assembly. In addition, ***multiple bolts were identified as being inadequately torqued***.

48. Similar defects have been identified in two other Train 3 motors, which will also require repairs.

49. The RCA identified a separate Defect in the 75 MW motor that also requires repair in order to prevent premature failure in the future. Specifically, significant partial discharge was found on the cable bundles going from the stator to the motor termination boxes in the 75 MW motor. The cause of the discharge was determined to be the excessive length of the cables and the increased bend radius of the cabling. Cable sheath and insulation damage due to excess partial discharge was also found in the other Train 3 motors, requiring repairs to all three Train 3 motors before they could be placed back into service.

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50. The same 75 MW Motor are utilized in Trains 1 and 2 of the LNG Facility. Given the prevalence of the Defects in the Train 3 motors, Plaintiffs believed that it was likely that the motors in Trains 1 and 2 are affected by the same Defects.

51. As a result, Plaintiffs implemented enhanced monitoring of Trains 1 and 2 and planned to perform inspections of Trains 1 and 2 after the repairs to Train 3 were completed. However, the enhanced monitoring performed on the Train 1 and 2 motors identified an increase in partial discharge and current abnormalities in one of the Train 2 motors. As such, Train 2 was taken offline for inspection prior to the completion of the repairs to Train 3.

52. Inspections of the Train 2 motors revealed additional workmanship issues, even moreso than those found in the inspections of the Train 3 motors. Not only did all 6 bolt assemblies dislodge from the protective micarta panel (as they did in the damaged Train 3 motor), but the micarta panel itself partially separated due to an approximately two-foot long bolt assembly dislodging from the underside of the panel. While one of the two-foot long bolt assemblies remained in place, the other bolt assembly became fully dislodged from the protective panel and appears to have dropped into the rotor portion of the motor and sheared into numerous smaller pieces (which caused additional damage to the motor internals).

53. The inspection of the Train 2 motor also identified substantial damage to the insulation on the motor's stator. The preliminary boroscope inspection of Train 2's 12K-31 motor identified that some bolt assemblies have dislodged from the micarta panels.

54. Given the extent of the faulty workmanship and poor condition of the bolt assemblies and cabling supports identified in Train 2, Plaintiffs made the decision to take Train 1 offline immediately to mitigate any possibility of damage to the Train 1 motors.

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55. FLIQ3 has incurred damages, costs, losses, and expenses as a result of the failure of the 75 MW motor on Train 3 and Contractor's failure to comply with its obligations and Warranties under the EPC Contracts, including investigatory and repair costs, removal and transportation costs for the 75 MW motor to be taken from its installed location to and from the off-site facility for repairs, costs to install a spare 75 MW motor into Train 3, and other costs and expenses incurred by FLIQ3 as a result of the Defects. FLIQ3 also incurred additional damages, costs, losses and expenses to carry out preventative maintenance on the other Train 3 motors.

56. FLIQ1 and FLIQ2 have or will incur similar damages, costs, losses and expenses as a result of the Contractor's failure to comply with its obligations and Warranties under the EPC Contracts in connection with the motors on Trains 1 and 2.

57. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim.

58. All conditions precedent to filing this action have or will soon occur.

VII. CAUSES OF ACTION

A. Breach of the EPC Contracts

59. Plaintiffs incorporate and reallege the preceding allegations as if fully set forth below.

60. Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts.

61. Defendants have breached their substantive performance obligations under Articles 2 and 3 of the EPC Contracts, as well as their Warranty obligations under Article 12 of the EPC Contracts, by at least the following acts and omissions:

a. Contractor's deficient bolt/washer/nut retention assembly design and its

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inadequate quality assurance/quality control during assembly,

b. Contractor's excessive cable length and increased bend radius of cabling resulting in significant partial discharge on the cable bundles, and

c. Contractor's deficient bolt assemblies, causing the bolts to become dislodged from the micarta panels and separation of the micarta panels themselves.

62. Defendants' acts and omissions constitute a breach of their obligations under the EPC Contracts, including, *inter alia*, the obligations to:

a. perform engineering, design, manufacture and fabrication "in accordance with the requirements of this Agreement" under Section 3.1A;

b. "perform the Work in accordance with GECP" under Section 3.1A, which includes "reasonable and prudent practices, methods, skill, care, techniques and standards" for the engineering, design and construction of LNG facilities;

c. "procure" and "assemble, erect and install all Equipment" under Section 3.2A;

d. "provide … inspection and quality control services" under Section 3.2B;

e. inspect the Work of their Subcontractors and "ensure that such work meets all the requirements of this Agreement" under Section 3.2D;

f. "perform, or cause to be performed, all design and engineering Work in accordance with this Agreement" under Section 3.2R and the equivalent language of Section 3.3A;

g. comply with their Warranty that the Equipment and each component thereof

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shall be "new, complete and of suitable grade for the intended function and use in accordance with this Agreement" under Section 12.1B(1);

h. comply with their Warranty that the Equipment and each component thereof shall be "in accordance with all of the requirements of this Agreement, including in accordance with GECP" under Section 12.1B(2); and

i. comply with their Warranty that the Equipment and each component thereof shall be "free from defects in design, material and workmanship" under Section 12.1B(3).

63. Plaintiffs have been damaged and are entitled to recover all amounts caused by Defendants' breaches of the EPC Contracts.

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

65. Because of Defendants' breaches, it has been necessary for Plaintiffs to retain the undersigned attorneys to prosecute this claim. Pursuant to Texas Civil Practice & Remedies Code § 38.001, Plaintiffs are entitled to recover its reasonable and necessary attorneys' fees.

VIII. REQUEST FOR RELIEF

66. Plaintiffs respectfully requests that Defendants be cited to appear and answer, and that Plaintiffs be granted judgment including the following relief:

a. all damages caused by Defendants' breaches of the EPC Contracts;

b. pre-judgment and post-judgment interest at the highest allowable rate;

c. costs and reasonable and necessary attorneys' fees; and

d. all other relief to which Plaintiffs are entitled.

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Respectfully Submitted,

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EXHIBIT C

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

TABLE OF CONTENTS

RECITALS 11
Article 1 DEFINITIONS 12
Article 2 RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS 31
2.1 Status of Contractor 31
2.2 Key Personnel, Organization Chart and Contractor Representative 31
2.3 Subcontractors and Sub-subcontractors 32
2.4 Subcontracts and Sub-subcontracts 33
2.5 Contractor Acknowledgements 35
Article 3 CONTRACTOR'S RESPONSIBILITIES 40
3.1 Scope of Work 40
3.2 Specific Obligations 41
3.3 Design and Engineering Work. 42
3.4 Spare Parts 45
3.5 Training Program in General 46
3.6 Environmental Regulations and Environmental Compliance 46
3.7 Contractor's Tools and Equipment 47
3.8 Employment of Personnel 47
3.9 Clean-up 49
3.10 Safety and Security 49
3.11 Emergencies 51
3.12 Approvals, Certificates, Permits and Licenses 51
3.13 Books, Records and Audits. 51
3.14 Tax Accounting 52
3.15 Temporary Utilities, Roads, Facilities and Storage 53
3.16 Subordination of Liens 53
3.17 Hazardous Materials 54
3.18 Quality Assurance 54
3.19 Reports and Meetings 55
3.20 Payment 57
3.21 Commercial Activities 57
3.22 Title to Materials Found 57
3.23 Survey Control Points and Layout 57
3.24 Cooperation with Others 57
3.25 Scheduled and Unscheduled Activities Involving Existing Facility, the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement, and the Train 2 Expansion After its Substantial Completion Under the Train 2 EPC Agreement 58
3.26 Responsibility for Property 59
3.27 Explosives 60
3.28 Nondiscrimination 60
3.29 Used or Salvaged Materials 60
3.30 Supervision of Owner's Operation Personnel 60
3.31 Use of Owner Equipment or Facilities 61
3.32 Compliance with Real Property Interests 62
Article 4 OWNER'S RESPONSIBILITIES 62

4.1 Payment 62
4.2 Permits 62
4.3 Access to the Site 62
4.4 Operation Personnel 62
4.5 Texas Sales and Use Taxes 63
4.6 Hazardous Materials 64
4.7 Legal Description and Survey 64
4.8 Owner Provided Items 64
Article 5 COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS 69
5.1 Commencement of Work 69
5.2 Limited Notice to Proceed/Notice to Proceed 69
5.3 Train 3 Project Schedule 71
5.4 CPM Schedule 72
5.5 Recovery and Recovery Schedule 75
5.6 Acceleration and Acceleration Schedule 77
Article 6 CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY 78
6.1 Change Orders Requested by Owner 78
6.2 Change Orders Requested by Contractor 79
6.3 Contract Price Adjustment; Contractor Documentation 81
6.4 Change Orders Act as Accord and Satisfaction 81
6.5 Timing Requirements for Notifications and Change Order Requests by Contractor 82
6.6 Adjustment Only Through Change Order 83
6.7 Force Majeure 84
6.8 Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law 85
6.9 Delay 86
6.10 Contractor Obligation to Mitigate Delay 87
6.11 Separated Contract Price Adjustments in Change Orders 87
6.12 Owner's Change Order Right to Undertake Full Scope of Expansion Facility Dock under this Agreement 87
Article 7 CONTRACT PRICE AND PAYMENTS TO CONTRACTOR 88
7.1 Contract Price 88
7.2 Contract Price Components 89
7.3 Interim Payments 89
7.4 Final Completion and Final Payment 91
7.5 Payments Not Acceptance of Work 91
7.6 Payments Withheld 92
7.7 Interest on Late Payments 93
7.8 Work Breakdown Structure 93
7.9 Payment Error 93
7.10 Currency 93
7.11 Allowance for Nickel in 9% Nickel Steel Plate 94
7.12 Conditions Precedent to Payment 94
7.13 Payments to Subcontractors 94
7.14 Retainage and Retention Letter of Credit 95

Article 8 TITLE AND RISK OF LOSS 96
8.1 Title 96
8.2 Risk of Loss 96
Article 9 INSURANCE AND LETTER OF CREDIT 98
9.1 Insurance 98
9.2 Irrevocable Standby Letter of Credit 99
9.3 Retention Letter of Credit 100
9.4 Financial Statements 102
Article 10 OWNERSHIP OF DOCUMENTATION 102
10.1 Ownership of Work Product 102
10.2 Return/Delivery of Certain Property 104
10.3 Contractor's License in Work Product 104
10.4 Owner Provided Documents 104
Article 11 COMPLETION MILESTONES 105
11.1 Notice and Requirements for RFSU and RLFC 105
11.2 Notice and Requirements for Substantial Completion 108
11.3 Owner Acceptance of RLFC and Substantial Completion 108
11.4 Minimum Acceptance Criteria as a Condition of Substantial Completion 109
11.5 Punchlist 113
11.6 Notice and Requirements for Final Completion 114
11.7 Partial Occupancy 114
11.8 Operations Activities 115
11.9 LNG Tankers Calling on the Facility 115
11.10 Long-Term Obligations 116
Article 12 WARRANTY AND CORRECTION OF WORK 116
12.1 Warranty 116
12.2 Correction of Work Prior to Substantial Completion 117
12.3 Correction of Work After Substantial Completion 119
12.4 Assignability of Warranties 120
12.5 Waiver of Implied Warranties 120
Article 13 GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES 120
13.1 Guarantee of Timely Completion 120
13.2 Delay Liquidated Damages 120
Article 14 CONTRACTOR'S REPRESENTATIONS 121
14.1 Corporate Standing 121
14.2 No Violation of Law; Litigation 121
14.3 Licenses 121
14.4 No Breach 122
14.5 Corporate Action 122
14.6 Financial Solvency 122
Article 15 OWNER'S REPRESENTATIONS 122
15.1 Corporate Standing 122
15.2 No Violation of Law; Litigation 122
15.3 Licenses 122
15.4 No Breach 123

15.5 Corporate Action 123
15.6 Financing and Payment 123
Article 16 DEFAULT, TERMINATION AND SUSPENSION 123
16.1 Default by Contractor 123
16.2 Termination for Convenience by Owner 126
16.3 Suspension of Work 126
16.4 Suspension by Contractor 127
16.5 Termination by Contractor 127
16.6 Termination Due to Extended Force Majeure 127
Article 17 INDEMNITIES 128
17.1 General Indemnification 128
17.2 Injuries to Contractor's Employees and Damage to Contractor's Property 129
17.3 Injuries to Owner's Employees and Damage to Owner's Property 129
17.4 Owner's Patent and Copyright Indemnification 129
17.5 Contractor's Patent and Copyright Indemnification 129
17.6 Lien Indemnification 130
17.7 Legal Defense 131
17.8 Enforceability 131
Article 18 DISPUTE RESOLUTION 132
18.1 Negotiation 132
18.2 Mediation 132
18.3 Litigation 133
18.4 Continuation of Work During Dispute 133
Article 19 CONFIDENTIALITY 134
19.1 Contractor's Obligations 134
19.2 Owner's Obligations 134
19.3 Definitions 135
19.4 Exceptions 135
19.5 Equitable Relief 135
19.6 Term 135
Article 20 LIMITATION OF LIABILITY 135
20.1 Contractor Aggregate Liability 135
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 Facility After Substantial Completion 136
20.3 Limitation on Contractor's Liability for Delay Liquidated Damages 137
20.4 Delay Liquidated Damages In General 137
20.5 Consequential Damages 138
20.6 Owner Separate Contracts 138
20.7 Continuing Rights and Obligations 138
20.8 Application of Liability Limitations 139
Article 21 MISCELLANEOUS PROVISIONS 139
21.1 Entire Agreement 139
21.2 Amendments 139
21.3 Joint Effort 140

21.4 Captions 140
21.5 Notice 140
21.6 Severability 141
21.7 Assignment 141
21.8 No Waiver 141
21.9 Governing Law 141
21.10 Successors and Assigns 141
21.11 Attachments and Schedules 142
21.12 Obligations 142
21.13 Further Assurances 142
21.14 Priority 142
21.15 Restrictions on Public Announcements 142
21.16 Parent Guarantee 143
21.17 Foreign Corrupt Practices Act 143
21.18 Language 143
21.19 Counterparts 143
21.20 Owner's Lender(s) 143
21.21 Joint and Several Liability 144
21.22 Coordination Between this Agreement, the Train 1 EPC Agreement and Train 2 EPC Agreement 144
21.23 Survival 146

LIST OF ATTACHMENTS AND SCHEDULES

ATTACHMENT A	Scope of Work and Design Basis
SCHEDULE A-1	Scope of Work
SCHEDULE A-2	Design Basis – Pretreatment Facility
SCHEDULE A-3	Design Basis – Liquefaction Facility
ATTACHMENT B	Contractor Deliverables
ATTACHMENT C	Payment Schedule and Work Breakdown Structure Form
SCHEDULE C-1	Payment Milestone Schedule
SCHEDULE C-2	Maximum Cumulative Payment Schedule
SCHEDULE C-3	Form of Work Breakdown Structure
ATTACHMENT D	Form of Change Order
SCHEDULE D-1	Change Order Form
SCHEDULE D-2	Unilateral Change Order Form
SCHEDULE D-3	Contractor's Change Order Request Form
SCHEDULE D-4	Pricing for Change Orders
ATTACHMENT E	Train 3 Project Schedule, Schedule Milestones and Delay Liquidated Damages
ATTACHMENT F	Key Personnel and Contractor's Organization
ATTACHMENT G	Approved Subcontractors and Sub-subcontractors
ATTACHMENT H	Notice to Proceed Forms
SCHEDULE H-1	Form of Limited Notice to Proceed
SCHEDULE H-2	Form of Notice to Proceed
SCHEDULE H-3	LNTP No. 1
ATTACHMENT I	Form of Contractor's Invoices
SCHEDULE I-1	Form of Contractor's Interim Invoice

SCHEDULE I-2 Form of Contractor's Final Invoice

ATTACHMENT J Health, Safety, Security and Environmental Management Plan

ATTACHMENT K Form of Lien and Claim Waivers

SCHEDULE K-1 Contractor's Conditional Waiver and Release on Progress Payment

SCHEDULE K-2 Contractor's Conditional Claim Waiver and Release on Progress Payment

SCHEDULE K-3 Subcontractor's Conditional Waiver and Release on Progress Payment

SCHEDULE K-4 Subcontractor's Conditional Claim Waiver and Release on Progress Payment

SCHEDULE K-5 Contractor's Conditional Waiver and Release on Final Payment

SCHEDULE K-6 Contractor's Conditional Claim Waiver and Release on Final Payment

SCHEDULE K-7 Subcontractor's Conditional Waiver and Release on Final Payment

SCHEDULE K-8 Subcontractor's Conditional Claim Waiver and Release on Final Payment

ATTACHMENT L Form of RFSU Certificate

ATTACHMENT M Form of Substantial Completion Certificate

ATTACHMENT N Form of Final Completion Certificate

ATTACHMENT O Insurance Requirements

ATTACHMENT P Contractor Permits

ATTACHMENT Q Owner Permits

ATTACHMENT R Form of Irrevocable, Standby Letter of Credit and Retention Letter of Credit

SCHEDULE R-1 Form of Irrevocable, Standby Letter of Credit

SCHEDULE R-2 Form of Retention Letter of Credit

ATTACHMENT S	Performance Tests
ATTACHMENT T	Minimum Acceptance Criteria and other Performance Requirements
ATTACHMENT U	Form of Parent Guarantee
ATTACHMENT V	Pre-Commissioning, Commissioning, Start-Up, Training and Turnover Program
ATTACHMENT W	Capital Spare Parts List
ATTACHMENT X	Reporting Requirements
ATTACHMENT Y	Site
SCHEDULE Y-1	Existing Facility Site and Expansion Facility Site on Quintana Island
SCHEDULE Y-2	Train 1 Expansion Site, Train 2 Expansion Site, Train 3 Expansion Site and Other Expansion Facility Site Areas on Quintana Island
SCHEDULE Y-3	Train 1 Expansion Site, Train 2 Expansion Site, Train 3 Expansion Site and Other Expansion Facility Site Areas at the Pretreatment Facility Location
ATTACHMENT Z	Owner-Provided Items
ATTACHMENT AA	Form of RLFC Certificate
ATTACHMENT BB	Subsurface Documents
ATTACHMENT CC	Interfaces and Tie-Ins with Existing Facility, the Train 1 Expansion (after its substantial completion) and the Train 2 Expansion (after its substantial completion)
ATTACHMENT DD	[Not Used]
ATTACHMENT EE	Owner's Quality Management General Requirements
ATTACHMENT FF	Owner Provided List of Tax Exempt and Taxable Equipment
ATTACHMENT GG	Owner's Texas Direct Pay Exemption Certificate and Texas Sales and Use Tax Exemption Certificate
ATTACHMENT HH	Adjustment for Piles

ATTACHMENT II	[Not Used]
ATTACHMENT JJ	Form of Equipment Sharing Agreement
ATTACHMENT KK	Adjustment for 9% Nickel Steel
ATTACHMENT LL	Hydrotest Source Water

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 3 LIQUEFACTION PROJECT

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT FOR THE FREEPORT TRAIN 3 LIQUEFACTION PROJECT (this "***Agreement***"), dated as of the 24th Day of March, 2015 (the "***Effective Date***"), is entered into by FLNG Liquefaction 3, LLC, a Delaware limited liability company ("***Owner***"), and CB&I Inc., a Texas corporation, Zachry Industrial, Inc., a Delaware corporation, and Chiyoda International Corporation, a Washington corporation, with CB&I, Zachry and Chiyoda hereinafter collectively referred to as "***Contractor***", and with each of Owner and Contractor sometimes referred to individually herein as a "***Party***" and collectively as the "***Parties***".

RECITALS

WHEREAS, Owner's affiliate, Freeport LNG Development, L.P. ("***FLNG Development***") owns and operates an existing LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas (as defined in greater detail in Section 1.1, the "***Existing Facility***"); and

WHEREAS, Owner intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that will modify, and be interconnected with, the Existing Facility, Train 1 Expansion and Train 2 Expansion (as more fully described herein, the "***Train 3 Expansion***"). The engineering, procurement, construction, pre-commissioning, commissioning and testing of the Train 3 Expansion is hereby referred to as the "***Train 3 Project***"; and

WHEREAS, another affiliate of Owner, FLNG Liquefaction, LLC ("***FLIQ1***"), intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 3 Expansion, and will modify, and be interconnected with, the Existing Facility, the Train 2 Expansion and the Train 3 Expansion as well as share the Expansion Facility Common Systems with the Train 2 Expansion and Train 3 Expansion (as defined in greater detail in Section 1.1, the "***Train 1 Expansion***"); and

WHEREAS, another affiliate of Owner, FLNG Liquefaction 2, LLC ("***FLIQ2***") intends to expand the Existing Facility by developing a turnkey natural gas liquefaction facility (including a natural gas pretreatment facility), and all related appurtenances thereto, that is separate from and in addition to the Train 3 Expansion, and will modify, and be interconnected with, the Existing Facility, the Train 1 Expansion and the Train 3 Expansion as well as share the Expansion Facility Common Systems with the Train 1 Expansion and the Train 3 Expansion (as defined in greater detail in Section 1.1, the "***Train 2 Expansion***"); and

WHEREAS, FLIQ1 intends to develop the Train 1 Expansion pursuant to a fixed price (separated for tax purposes), turnkey engineering, procurement and construction agreement entered into by FLIQ1 and T1/T2 EPC Contractor, dated December 10, 2013 (hereinafter, the "***Train 1 EPC Agreement***"); and

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 mutual covenants herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meanings specified in this Section 1.1.

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

"***Abandonment of the Train 3 Project***" means, prior to the acceptance by Owner of the Substantial Completion Certificate, Contractor's express refusal to perform substantially all home office activities and field construction operations in a manner that objectively manifests the intent by Contractor of not completing the Work under this Agreement. For the avoidance of doubt, Contractor shall not be alleged to have implicitly, expressly, or constructively abandoned the Train 3 Project or the Work as a result of Owner terminating Contractor pursuant to Section 16.1 for a Default, other than a Default 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

"controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

"***Agreement***" means this Agreement for the performance of the Work (including all Attachments and Schedules attached hereto), as it may be amended from time to time in accordance with this Agreement.

"***Applicable Codes and Standards***" means any and all codes, standards or requirements set forth herein (including Attachment A) or in any Applicable Law, which codes, standards and requirements shall govern Contractor's performance of the Work, as provided herein. In the event of an inconsistency or conflict between any of the Applicable Codes and Standards, the highest performance standard as contemplated therein shall govern Contractor's performance under this Agreement.

"***Applicable Law***" means all laws, statutes, ordinances, certifications, orders, decrees, injunctions, licenses, Permits, approvals, agreements, rules and regulations, including any conditions thereto, of any Governmental Instrumentality (including the Electric Reliability Council of Texas) 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 or the interpretation or application of this Agreement, including (i) any and all Permits, (ii) any Applicable Codes and Standards set forth in Applicable Law, and (iii) Applicable Law related to (y) conservation, improvement, protection, pollution, contamination or remediation of the environment or (z) Hazardous Materials or any handling, storage, release or other disposition of Hazardous Materials.

"***As-Built Drawings and Specifications***" means Drawings and Specifications that show all current "as-built" conditions of the Train 3 Project, as required under Attachment B.

"***Baseline CPM Schedule***" has the meaning set forth in Section 5.4A.

"***Books and Records***" has the meaning set forth in Section 3.13A.

"***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 United States of America.

"***Btu***" means a British thermal unit.

"***CAD***" has the meaning set forth in Section 3.3E.

"***Capital Spare Parts***" shall mean those spare parts listed in Attachment W for use after Substantial Completion which are to be included in the Work and the Contract Price as further set forth in Section 3.4B.

"***CB&I***" has the meaning set forth in Section 21.21.

"***CB&I Guarantor***" means Chicago Bridge & Iron Company N.V.

"***CenterPoint***" means CenterPoint Energy, or any successor entity thereto.

"***Change Order***" means a written order issued by Owner to Contractor after the execution of this Agreement, in the form of Schedule D-2, or a written instrument signed by both Parties after the execution of this Agreement in the form of Schedule D-1, that authorizes an addition to, deletion from, suspension of, or any other modification or adjustment to the requirements of this Agreement, including an addition to, deletion from or suspension of the Work or any modification or adjustment to any Changed Criteria. Owner and Contractor are entitled to a Change Order in accordance with Article 6.

"***Changed Criteria***" has the meaning set forth in Section 6.1A.

"***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 inventory, revenue, income, profits/losses or cost of finance or withholding Tax) that occurs and takes effect after the Effective Date.

"***Chiyoda***" has the meaning set forth in Section 21.21.

"***Chiyoda Guarantor***" means Chiyoda Corporation, a company registered under the laws of Japan.

"***Confidential Information***" has the meaning set forth in Section 19.3.

"***Contract Price***" has the meaning set forth in Section 7.1. For purposes of clarity, the Contract Price shall equal the sum of the Train 3 Specific Contract Price Component and the Train 3 Specific Common Systems Contract Price Component.

"***Contract Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Contractor***" has the meaning set forth in the preamble hereto.

"***Contractor Indemnified Parties***" means (i) Contractor, its parent, its limited or general partners, its members and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, employees, representatives and invitees of each Person specified in clause (i) above. A "Contractor Indemnified Party" means any of the Contractor Indemnified Parties.

"***Contractor Representative***" means that Person or Persons designated by Contractor in a written notice to Owner and acceptable to Owner, who shall have complete authority to act on behalf of Contractor on all matters pertaining to this Agreement or the Work, including giving instructions and making changes in the Work, except for any limitations specified in such notice.

"***Contractor's Confidential Information***" has the meaning set forth in Section 19.2.

"***Contractor's Intellectual Property***" has the meaning set forth in Section 10.1B.

"***Corrective Work***" has the meaning set forth in Section 12.3.

"***CPM Schedule***" means the Baseline CPM Schedule (as it may be updated from time to time in accordance with this Agreement) or Monthly Updated CPM Schedules, as the context requires.

"***Cure Period***" has the meaning set forth in Section 16.1A.1.

"***Day***" means a calendar day.

"***Default***" has the meaning set forth in Section 16.1A.

"***Defect***" or "***Defective***" has the meaning set forth in Section 12.1A.

"***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.

"***Defective MCHE***" means, for purposes of Section 11.4B only, an MCHE that fails to achieve its performance guarantees as fully defined in the equipment purchase agreement for the MCHE between APCI and Contractor. For all other purposes within the Agreement, a Defective MCHE shall mean an MCHE that has a Defect as defined in Section 12.1A.

"***Delay Liquidated Damages***" shall mean any or all of the (a) RLFC Delay Liquidated Damages, (b) Substantial Completion Delay Liquidated Damages, (c) Record As-Built Delivery Requirement Delay Liquidated Damages or (d) MCHE Replacement Delay Liquidated Damages, as the context requires.

"***Design Basis***" means the basis of design and technical limits and parameters of the Expansion Facility as set forth in Schedules A-2 and A-3.

"***Disclosing Party***" has the meaning set forth in Section 19.3.

"***Dispute***" has the meaning set forth in Section 18.1.

"***Drawings***" means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams, which are prepared as a part of and during the performance of the Work.

"***Effective Date***" has the meaning set forth in the preamble.

"***Equipment***" means all equipment and materials required for incorporation into the Train 3 Expansion.

"***Equipment Sharing Agreement***" means that certain Equipment Sharing Agreement, to

be executed by Owner, FLIQ CF, T1/T2 EPC Contractor, Contractor, FLIQ1, FLIQ2 and other signatories relating to the sharing of items of equipment among Owner, FLIQ CF, FLIQ 1, FLIQ2 and other signatories, which such Equipment Sharing Agreement shall be substantially in the form attached hereto as Attachment JJ.

"***Existing Facility***" means Owner's Affiliates' (including FLNG Development and its Affiliates) existing (i) LNG receiving, storage and regasification terminal located on Quintana Island in Freeport, Texas, (ii) Stratton Ridge natural gas metering station, (iii) forty-two inch (42") diameter natural gas pipeline connecting the Stratton Ridge natural gas metering station to the terminal on Quintana Island, and (iv) underground natural gas storage cavern located near Stratton Ridge and its related natural gas storage infrastructure and compression facilities.

"***Existing Facility Site***" means those areas where the Existing Facility is located as shown in greater detail in Schedule Y-1.

"***Expansion Facility***" means collectively, the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion, including all Expansion Facility Common Systems.

"***Expansion Facility Common Systems***" means those portions of the Expansion Facility which will be utilized by the Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Expansion Facility Dock, Train 3 LNG Storage Tank and certain modification to the Existing Facility. The Expansion Facility Common Systems will be designed, procured and constructed such that the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion may be operated simultaneously or individually at the design conditions set forth in the Train 1 EPC Agreement (with respect to the Train 1 Expansion), the design conditions set forth in the Train 2 EPC Agreement (with respect to the Train 2 Expansion) and this Agreement (with respect to the Train 3 Expansion).

"***Expansion Facility Dock***" means the LNG loading and unloading dock to be constructed as part of the Expansion Facility, including all marine piling, concrete structures, mooring dolphins, and topside Equipment, as further described in Attachment A of the Train 1 EPC Agreement and the Train 2 EPC Agreement.

"***Expansion Facility Dock Work***" means all work performed under the Train 1 EPC Agreement and the Train 2 EPC Agreement to design, engineer, procure, construct, pre-commission, commission and test the Expansion Facility Dock. The Expansion Facility Dock shall include all direct and indirect labor and materials provided to develop the Expansion Facility Dock, including, permanent materials, bulks and commodities, subcontractor and sub-subcontractor supplies and services, construction equipment, supplies, small tools, scaffolding, spare parts, pre-commissioning, commissioning and start-up activities, home office services, project management services, temporary facilities, training, general site services and supplies, temporary utilities, security, and subcontractor and sub-subcontractor support, all to the extent necessary for the development of the Expansion Facility Dock as part of the Expansion Facility.

"***Expansion Facility Site***" means those areas comprised of the Train 1 Expansion Site, Train 2 Expansion Site, Train 3 Expansion Site and other Expansion Facility Site areas as shown in greater detail in Attachment Y.

"***Facility***" means both the Expansion Facility and the Existing Facility.

"***FEED Agreement***" means the Front End Engineering Design Services Agreement between Freeport LNG Expansion, L.P. and T1/T2 EPC Contractor, dated January 30, 2012.

"***FERC***" means the Federal Energy Regulatory Commission.

"***FERC Order***" means the Order Granting Authorization under Section 3 of the Natural Gas Act, issued by FERC to Owner in connection with the Expansion Facility, as may be amended or modified.

"***Final Completion***" means that all Work and all other obligations under the Agreement (except for those obligations that survive the termination or expiration of this Agreement, including obligations for Warranties, correction of Defective Work and those covered, without limitation, by Section 11.10), are fully and completely performed in accordance with the terms of this Agreement, including: (i) the successful achievement of RLFC and Substantial Completion; (ii) the successful achievement of the MCHE Power Performance Guarantee or, if the MCHE Power Performance Guarantee was not achieved but the Total Gas Horsepower (as determined in accordance with Attachments S and T) was equal to or less than 105% of the MCHE Power Performance Guarantee, the MCHE Power Performance Guarantee Liquidated Damages in accordance with Attachment T have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's discretion); (iii) the completion of all Punchlist items; (iv) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers in the forms of Schedules K-5 and K-6; (v) delivery by Contractor to Owner of all remaining documentation required to be delivered under this Agreement, including Owner's Confidential Information, test reports, and the documentation required under Attachment B and Attachment EE; (vi) removal from the Site of all of Contractor's, Subcontractors' and Sub-subcontractor's personnel, supplies, waste, materials, equipment (except Equipment), rubbish, Hazardous Materials, and temporary facilities; (vii) delivery by Contractor to Owner of fully executed Final Lien and Claim Waivers from all Major Subcontractors in the forms in Schedules K-7 and K-8; (viii) if requested by Owner, fully executed Final Lien and Claim Waivers from Major Sub-subcontractors in a forms substantially similar to the forms in Schedule K-7 and K-8; and (ix) delivery by Contractor to Owner of a Final Completion Certificate in the form of Attachment N and as required under Section 11.6, which Owner has accepted by signing such certificate.

"***Final Completion Certificate***" has the meaning set forth in Section 11.6.

"***Final Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors

in accordance with the requirements of Section 7.4, which shall be in the form of Attachment K, Schedules K-5, K-6, K-7 and K-8.

"***First RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***FLIQ CF***" means FLIQ Common Facilities, LLC.

"***FLIQ1***" has the meaning set forth in the Recitals.

"***FLIQ2***" has the meaning set forth in the Recitals.

"***FLNG Development***" has the meaning set forth in the Recitals.

"***Force Majeure***" means catastrophic storms (including ice storms) or flooding, lightning, tornadoes, hurricanes, named tropical storms, earthquakes and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, and actions of a Governmental Instrumentality that were not requested, promoted, or caused by the affected Party; *provided that* such act or event (i) delays or renders impossible the affected Party's performance of its obligations under this Agreement, (ii) is beyond the reasonable control of the affected Party, was not due to its fault or negligence and was not reasonably foreseeable, and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum taking into account the Contract Price. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship, (ii) changes in market conditions, (iii) late delivery or failure of materials, equipment (including Equipment) or supplies unless due to a Force Majeure event, (iv) strikes, or other similar labor actions of Contractor or its Subcontractors or Sub-subcontractors, except Subcontractors (or their associated Sub-subcontractors) providing the main cryogenic heat exchanger, refrigeration compressor packages, major inline cryogenic valves or non-U.S. liquefaction air coolers, *provided that* with respect to the foregoing excepted Subcontractors and Sub-subcontractors, Contractor's relief for such strikes or other similar labor actions shall be limited to an extension to the Guaranteed Substantial Completion Date and the Required Final Completion Date pursuant to Section 6.8A.1 (and does not include adjustments to the Contract Price pursuant to Section 6.8A.2(b)), (v) unavailability of laborers, Subcontractors or Sub-subcontractors, or (vi) climatic conditions (including rain, snow, wind, temperature and other weather conditions), tides, and seasons, regardless of the magnitude, severity, duration or frequency of such climatic conditions, tides or seasons, *provided that* such climatic conditions, tides and seasons do not include catastrophic storms (including ice storms) or floods, lightning, tornadoes, hurricanes, named tropical storms or earthquakes meeting the requirements of a Force Majeure, or (vii) nonperformance or delay by Contractor or its Subcontractors or Sub-subcontractors, unless such nonperformance or delay is otherwise caused by a Force Majeure.

"***Fourth RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***GAAP***" means generally accepted accounting principles.

"***Good Engineering and Construction Practices***" or "***GECP***" means the generally accepted reasonable and prudent practices, methods, skill, care, techniques and standards employed by the liquefied natural gas engineering and construction industries with respect to: (i) the engineering, procurement, construction, pre-commissioning, commissioning, testing and start-up of LNG storage facilities, natural gas treatment facilities and natural gas liquefaction facilities, all in conformance with Applicable Codes and Standards, Applicable Law, and the standards recommended by the suppliers and manufacturers of Equipment provided hereunder; (ii) personnel and facility safety and environmental protection; (iii) efficient scheduling of the Work; and (iv) the reliability and availability of the Facility under the operating conditions reasonably expected at the Site, as specified in Attachment A. For clarification, GECP does not necessarily require compliance with the World Bank's noise guidelines, but Contractor shall nevertheless comply with noise levels and guidelines required by Permits, Applicable Law and Applicable Codes and Standards.

"***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.

"***Gross Negligence or Willful Misconduct***" shall have the meanings as determined under the governing law of this Agreement as set forth in Section 21.9.

"***Guaranteed Record As-Built Delivery Date***" has the meaning set forth in Section 3.3F.

"***Guaranteed Substantial Completion Date***" has the meaning set forth in Section 5.3A.

"***Guarantor***" means CB&I Guarantor, Zachry Guarantor and Chiyoda Guarantor

"***Hazardous Materials***" means any substance that under Applicable Law is considered to be hazardous or toxic or is or may be required to be remediated, including (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls and processes and certain cooling systems that use chlorofluorocarbons, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to Applicable Law, or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Instrumentality, or which may be the subject of liability for damages, costs or remediation.

"***IFC***" has the meaning set forth in Section 5.4A.

"***Indemnified Party***" means any Owner Indemnified Party or Contractor Indemnified Party, as the context requires.

"***Indemnifying Party***" means Owner or Contractor, as the context requires.

"***Intellectual Property Rights***" means patents, utility models, registered designs and models, trademarks, trade secrets, service marks, copyrights, applications for any of the foregoing and rights to apply for any of the foregoing, proprietary information and know-how, whether patentable or not, and any similar right.

"***Interim Lien and Claim Waivers***" means the waiver and release provided to Owner by Contractor, Major Subcontractors and, if requested by Owner, Major Sub-subcontractors in accordance with the requirements of Section 7.3C, which shall be in the form of Attachment K, Schedules K-1, K-2, K-3 and K-4.

"***Investment Grade***" has the meaning set forth in Section 9.2.

"***Invoice***" means Contractor's request for a payment pursuant to Section 7.3 for a progress payment and pursuant to Section 7.4 for final payment, which invoice shall be in the form of Schedule I-1 for progress payments and Schedule I-2 for final payment.

"***Key Personnel***" or "***Key Persons***" has the meaning set forth in Section 2.2A.

"***Labor and Skills Price***" has the meaning set forth in Section 7.1C.

"***Lender***" means any entity or entities providing temporary or permanent debt financing for the Expansion Facility.

"***Letter of Credit***" has the meaning set forth in Section 9.2.

"***Limited Notice to Proceed***" or "***LNTP***" has the meaning set forth in Section 3.3B.

"***LNG***" means liquefied Natural Gas.

"***LNG Evacuation Requirement***" has the meaning set forth in Section 4.8D.

"***LNG Production Rate***" means the average hourly LNG rundown rate over the 72-hour LNG Production Rate Performance Test measured at the outlet of the LNG liquefaction unit (at the final flow measuring device downstream of the MCHE prior to entering the common rundown header). The LNG Production Rate shall be established in a continuous 72-hour LNG Production Rate Performance Test without any process trips.

"***LNG Production Rate MAC***" means the Train 3 Expansion is capable of achieving an average (continuous, without any process trips) hourly LNG rundown rate equivalent to 566.8 metric tonnes per hour, when processing natural gas at the condition and of the composition defined in the design case (average gas) at an ambient Site temperature of 71 degrees Fahrenheit during the 72-hour LNG Production Rate Performance Test.

"***LNG Production Rate Performance Test***" has the meaning set forth in Attachment S.

"***LNG Tanker***" means any ocean-going vessel used by Owner, a customer of the Facility or their designee for the transportation of LNG.

"***LNTP No. 1***" has the meaning set forth in Section 5.2A.1.

"***Major Subcontract***" means either (i) any Subcontract having an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (ii) any Subcontract having an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or the Train 2 EPC Agreement or both, (iii) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (iv) multiple Subcontracts with one Subcontractor that have an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or Train 2 EPC Agreement or both, or (vi) entered into with a Subcontractor for Work listed in Part II of Attachment G.

"***Major Subcontractor***" means the Subcontractors listed as such in Attachment G and, in addition, any Subcontractor with whom Contractor enters, or intends to enter, into a Major Subcontract.

"***Major Sub-subcontract***" means either (i) any Sub-subcontract having an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (ii) any Sub-subcontract having an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or the Train 2 EPC Agreement or both, (iii) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Five Million U.S. Dollars (U.S.$5,000,000) for Work performed under this Agreement, (iv) multiple Sub-subcontracts with one Sub-subcontractor that have an aggregate value in excess of Fifteen Million U.S. Dollars (U.S.$15,000,000) for Work performed under this Agreement and work performed under the Train 1 EPC Agreement or Train 2 EPC Agreement or both, or (vi) entered into with a Sub-subcontractor for Work listed in Part II of Attachment G.

"***Major Sub-subcontractor***" means the Sub-subcontractors listed as such in Attachment G and, in addition, any Sub-subcontractor with whom a Subcontractor or Sub-subcontractor enters, or intends to enter, into a Major Sub-subcontract.

"***Maximum Cumulative Payment Schedule***" has the meaning set forth in Section 7.3E.

"***MCHE***" means the main cryogenic heat exchanger for the Train 3 Expansion.

"***MCHE Power Performance Guarantee***" has the meaning set forth in Attachment T.

"***MCHE Power Performance Guarantee Liquidated Damages***" has the meaning set forth in Attachment T.

"***MCHE Replacement Delay Liquidated Damages***" has the meaning set forth in Section 11.4B.2.

"***MCHE Replacement Scenario***" has the meaning set forth in Section 11.4B.

"***MCHE Replacement Scenario Verification Notice***" has the meaning set forth in Section 11.4B.1.

"***Minimum Acceptance Criteria***" or "***MAC***" means the LNG Production Rate MAC, the Tank Heat Leak Rate MAC for the Train 3 LNG Storage Tank, and the Ship Loading Rate MAC for the Train 3 LNG Storage Tank, all as further specified in Attachment T.

"***Minimum Acceptance Criteria Correction Period***" has the meaning set forth in Section 11.4A.

"***Minimum Acceptance Criteria Testing Conditions***" are the Performance Test conditions set forth in Attachment S.

"***MMBtu***" means one million (1,000,000) Btus.

"***Month***" means a Gregorian calendar month; "***month***" means any period of thirty (30) consecutive Days.

"***Monthly***" means an event occurring, or an action taken, once every Month.

"***Monthly Progress Reports***" has the meaning set forth in Section 3.19A.4.

"***Monthly Updated CPM Schedule***" has the meaning set forth in Section 5.4B.

"***Notice to Proceed***" or "***NTP***" has the meaning set forth in Section 3.3B.

"***NTP Exchange Rate***" has the meaning set forth in Section 7.10B.

"***Owner***" has the meaning set forth in the preamble hereto.

"***Owner Indemnified Parties***" means (i) Owner, its parent, its limited or general partners, its members, Lenders, any other Persons with an ownership interest in the Expansion Facility or the Existing Facility and each of their respective Affiliates and (ii) the respective directors, officers, agents, members, partners, shareholders, employees, representatives and invitees of each Person specified in clause (i) above. An "***Owner Indemnified Party***" means any one of the Owner Indemnified Parties.

"***Owner Representative***" means that Person or Persons designated by Owner in a written notice to Contractor who shall have complete authority to act on behalf of Owner on all matters pertaining to the Work, including giving instructions and making changes in the Work. Owner designates Taylor Auburg as the Owner Representative. Notification of a change in Owner Representative shall be provided in advance, in writing, to Contractor.

"***Owner's Confidential Information***" has the meaning set forth in Section 19.1.

"***Parent Guarantee***" has the meaning set forth in Section 21.16.

"***Party***" or "***Parties***" means Owner and/or Contractor and their successors and permitted assigns.

"***Payment Milestone***" means a designated portion of the Work as shown the Payment Milestone Schedule.

"***Payment Milestone Schedule***" means the schedule set forth in Schedule C-1, which sets out the payments to be paid based on completion of the Payment Milestones.

"***Performance Guarantee***" means the MCHE Power Performance Guarantee, as further set forth in Attachment T.

"***Performance Liquidated Damages***" shall mean the MCHE Power Performance Liquidated Damages, as further set forth in Attachment T.

"***Performance Tests***" means those tests performed to determine whether the Minimum Acceptance Criteria and Performance Guarantee have been achieved for the Train 3 Expansion, which tests shall be set forth in Attachment S and, to the extent not specified therein, as developed in accordance with Section 11.2.

"***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.

"***Person***" means any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, Governmental Instrumentality or other entity having legal capacity.

"***Piles***" has the meaning set forth in Section 2.5B.2(i).

"***Provisional Substantial Completion***" has the meaning set forth in Section 11.4B.6.

"***Punchlist***" means a list of those finishing items required to complete the Work, the completion of which shall not interrupt, disrupt or interfere with the safe and reliable operation or use of all or any part of the Facility, as more fully described in Section 11.5 of this Agreement.

"***Qualified Force Majeure Event***" has the meaning set forth in Section 6.7A.2(b).

"***Quality Management System***" means the system, including quality plans and procedures, used by Contractor to direct and control its organization with regard to quality, the requirements of which are set forth in Section 3.18 and Attachment EE.

"***Ready for Startup***" or "***RFSU***" means that all of the following have occurred with respect to the applicable system or subsystem of the Equipment for the Train 3 Project: (i) Contractor has completed all procurement, fabrication, assembly, erection, installation, and pre-commissioning and commissioning checks and tests of all Equipment (including

all systems and components of Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up) for such applicable system or subsystem of the Equipment to ensure that all such Equipment was fabricated, assembled, erected and installed and is capable of being properly operated, all within the requirements and specifications contained in this Agreement (and without damage to the Work, the Facility or any other property and without injury to any Person), all as set forth in greater detail in Attachment A and the RFSU checklists agreed by Owner and Contractor in accordance with Section 11.1A; (ii) Contractor and Owner have agreed upon an initial Punchlist of items as set forth in Section 11.5A and those Punchlist items necessary for achieving RFSU have been successfully completed by Contractor (including all A and B classified Punchlist items); (iii) Contractor has delivered to Owner an RFSU Certificate for the applicable system or subsystem in the form of Attachment L; (iv) Contractor has provided Owner with all documentation for RFSU, including the System Compilation Manuals, as required under Attachment B; (v) the requirements related to RFSU set forth in Attachment V (including the prestart-up safety review and walk-down between Owner and Contractor) have been achieved and the Owner approvals related thereto have been given; and (vi) the quality requirements of Attachment EE related to RFSU have been successfully completed and related documentation provided to Owner.

"***RFSU of the Train 3 Expansion***" shall mean that RFSU has been achieved for all systems and subsystems of the Train 3 Expansion.

"***Ready To Load First Cargo***" or "***RLFC***" means that all of the following have occurred with respect to the Train 3 Expansion: (i) the successful achievement of Ready For Start Up of all systems and subsystems of all Equipment; (ii) Contractor has completed all procurement, fabrication, assembly, erection, installation and pre-commissioning and commissioning checks and tests of all Equipment and all systems and subsystems of all Equipment, such as all operating, protection, fire, safety and other related systems required or necessary prior to start-up, to ensure that the Work (including all Expansion Facility Common Systems) and each component thereof was correctly fabricated, assembled, erected and installed, has been correctly integrated into the Existing Facility, the Train 1 Expansion and the Train 2 Expansion, and is capable of being operated within the requirements contained in this Agreement and without damage to the Work, the Facility, any other property or the environment and without injury to any Person, as set forth in greater detail in Attachment A; (iii) Contractor has successfully completed the process of drying out and purging all systems and subsystems; (iv) the Train 3 Expansion meets the additional requirements for RLFC set forth in Attachment A and Attachment V; (v) the Train 3 Expansion has liquefied natural gas into at least 150,000 m^3 of LNG meeting all specifications and requirements of this Agreement (other than the Minimum Acceptance Criteria and Performance Guarantees) and successfully transferred and stored such LNG into the Train 3 LNG Storage Tank; (vi) all LNG loading and unloading lines (and Equipment and systems related thereto) necessary for transfer of LNG from the Train 3 LNG Storage Tank to the Existing Facility's dock and the Expansion Facility Dock, have been cooled down and are ready for transfer of LNG to an LNG Tanker; (vii) Contractor has completed all Punchlist items necessary for achievement of RLFC pursuant to Section 11.5B and Contractor and Owner have agreed upon a revised and

updated Punchlist of items as set forth in Section 11.5B; and (viii) Contractor has delivered to Owner an RLFC Certificate in the form of Attachment AA and Owner has accepted such certificate by signing such certificate.

"***Receiving Party***" has the meaning set forth in Section 19.3.

"***Record As-Built Delivery Requirement***" has the meaning set forth in Section 3.3F.

"***Record As-Built Delivery Requirement Delay Liquidated Damages***" has the meaning set forth in Section 13.2B.

"***Record As-Built Drawings and Specifications***" means final, record Drawings and Specifications of the Train 3 Project showing the "as-built" conditions of the Train 3 Expansion, as required under Attachment B.

"***Recovery Schedule***" has the meaning set forth in Section 5.5.

"***Rely Upon Information***" means that certain information provided by Owner, which is expressly identified in Attachment Z as being Rely Upon Information, that Contractor shall be entitled to rely upon in the performance of the Work under this Agreement.

"***Replacement Timeline***" has the meaning set forth in Section 11.4B.2.

"***Required Final Completion Date***" has the meaning set forth in Section 5.3B.

"***Retainage***" has the meaning set forth in Section 7.14A.

"***Retention Letter of Credit***" has the meaning set forth in Section 9.3.

"***RFSU Certificate***" has the meaning set forth in Section 11.1A.

"***RLFC Certificate***" is the Contractor certification for achievement of RLFC in the form set forth in Attachment AA.

"***RLFC Delay Liquidated Damages***" has the meaning set forth in Section 11.1D.1.

"***Schedule Milestones***" means those milestones for completion of certain portions of the Work as further set forth in Attachment E.

"***Scope of Work***" means the description of Work to be performed by Contractor as set forth in this Agreement, including Attachment A.

"***Second RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Senior Supervisory Personnel***" means the following positions of Contractor's project management team: (i) Project Executive, (ii) each Deputy Project Executive, (iii) Engineering Manager, (iv) Site Construction Director, (v) PTF Construction Manager, (vi) Commissioning & Start-up Manager, (vii) Health, Safety and Security Manager, (viii) Procurement Manager, (ix) Project Controls Manager and (x) QA/QC Manager.

"***Ship Loading Performance Test***" has the meaning set forth in Attachment S.

"***Ship Loading Rate MAC***" has the meaning set forth in Attachment S.

"***Site***" means the Expansion Facility Site and the Existing Facility Site together, as further described in Attachment Y.

"***Specifications***" means those documents consisting of the written requirements for Equipment, standards and workmanship for the Work and performance of related services, which are prepared as part of and during the performance of the Work.

"***Subcontract***" means an agreement by Contractor with a Subcontractor for the performance of any portion of the Work, or an agreement by T1/T2 EPC Contractor with a Subcontractor for the performance of any portion of the Work.

"***Subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct contract with Contractor or T1/T2 EPC Contractor to manufacture or supply Equipment which is a portion of the Work, to lease equipment to Contractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor or materials that is part of the Work. For the avoidance of doubt, such Person that has a contract with T1/T2 EPC Contractor shall be a Subcontractor under this Agreement only to the extent that such contract is for the Work under this Agreement.

"***Substantial Completion***" means that all of the following have occurred with respect to the Train 3 Expansion: (i) Ready For Start Up has been achieved for all systems and subsystems of Equipment for the Train 3 Expansion; (ii) RLFC has been achieved and the RLFC Certificate has been delivered by Contractor to Owner and Owner has accepted such certificate by signing such certificate; (iii) all Minimum Acceptance Criteria have been achieved; (iv) Contractor has completed all items on the Punchlist that are required to achieve Substantial Completion, and Contractor and Owner have agreed upon a revised and updated Punchlist of items as set forth in Section 11.5C; (v) any RLFC Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages due and owing have been paid (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) to Owner; (vi) the Work and the Expansion Facility Common Systems have been completed (including training, manuals and the delivery of all documentation required for operation), except for Work on the Punchlist; (vii) Contractor has delivered to Owner the Substantial Completion Certificate in the form of Attachment M and as required under Section 11.2 and Owner has accepted such certificate by signing such certificate; (viii) the Train 3 Expansion has been integrated into the Existing Facility, the Train 1 Expansion, the Train 2 Expansion and all Expansion Facility Common Systems and is available for full commercial operation, including transporting LNG from the Train 3 Expansion to the Existing Facility LNG storage tanks and the Train 3 LNG Storage Tank and loading of LNG Tankers from the Existing Facility's dock and the Expansion Facility Dock, in accordance with the requirements of this Agreement; (ix) Contractor has obtained all Permits for the Train 3 Expansion required by Section 3.12; (x) Contractor has delivered to Owner fully executed Interim Lien and Claim Waivers in the forms of Schedules K-1 and K-2, fully executed Interim Lien and

Claim Waivers from all Major Subcontractors in the forms of Schedules K-3 and K-4 and, if requested by Owner, fully executed Interim Lien and Claim Waivers from all Major Sub-subcontractors substantially in the forms of Schedules K-3 and K-4, covering all Work up to the date of Substantial Completion; (xi) Contractor has assigned to or provided Owner with all Warranties related to the Work to the extent Contractor is obligated to do so pursuant to this Agreement; (xii) Contractor has delivered all documentation to Owner which it is required under the Agreement to provide at or prior to Substantial Completion pursuant to Attachment B; and (xiii) the quality requirements of Attachment EE related to Substantial Completion have been successfully completed and related documentation provided to Owner.

"***Substantial Completion Certificate***" is the Contractor certification for achievement of Substantial Completion in the form set forth in Attachment M.

"***Substantial Completion Delay Liquidated Damages***" has the meaning set forth in Section 13.2A.

"***Sub-subcontract***" means any agreement by a Subcontractor with a Sub-subcontractor or by a Sub-subcontractor with another Sub-subcontractor for the performance of any portion of the Work.

"***Sub-subcontractor***" means any Person, including an Equipment supplier or vendor, who has a direct or indirect contract with a Subcontractor or another Sub-subcontractor to manufacture or supply Equipment which comprises a portion of the Work, to lease equipment to Subcontractor or another Sub-subcontractor in connection with the Work, to perform a portion of the Work or to otherwise furnish labor, materials or equipment (including Equipment).

"***T1/T2 Common Systems***" means those portions of the Expansion Facility which will be utilized by the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion and which are designed, procured and constructed under the Train 1 EPC Agreement and the Train 2 EPC Agreement, all as further set forth in the Train 1 EPC Agreement and the Train 2 EPC Agreement.

"***T1/T2 EPC Contractor***" means a joint venture comprised of CB&I Inc., a Texas corporation, and Zachry Industrial, Inc., a Delaware corporation.

"***Tank Heat Leak Rate MAC***" has the meaning set forth in Attachment S.

"***Tank Heat Leak Rate Performance Test***" has the meaning set forth in Attachment S.

"***Tax Exempt Equipment***" has the meaning set forth in Section 4.5A.2.

"***Tax Exempt Equipment Price***" has the meaning set forth in Section 7.1A.

"***Taxable Equipment***" has the meaning set forth in Section 7.1B.

"***Taxable Equipment Price***" has the meaning set forth in Section 7.1B.

"***Taxes***" means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described, including value-added, sales and use taxes (excluding any Texas state and applicable local sales and use taxes on Tax Exempt Equipment and Taxable Equipment), gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, severance, premium**,** franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

"***Third Party Proprietary Work Product***" has the meaning set forth in Section 10.1B.

"***Third RLFC Window Period***" has the meaning set forth in Section 11.1B.

"***Train 1 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 1 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under the Train 1 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the T1/T2 Common Systems (including the Expansion Facility Dock and certain modifications to the Existing Facility) and other systems, all as further set forth in the Train 1 EPC Agreement.

"***Train 1 Expansion Site***" means those areas where the Train 1 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 2 EPC Agreement***" has the meaning set forth in the Recitals.

"***Train 2 Expansion***" means the facilities, and all appurtenances related thereto, to be designed, procured and constructed under the Train 2 EPC Agreement, including a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the T1/T2 Common Systems necessary to operate the Expansion Facility (including the Expansion Facility Dock and certain modifications to the Existing Facility) and all other systems, all as further set forth in the Train 2 EPC Agreement. For purposes of clarity, the Train 2 Expansion does not include any part of the Existing Facility (other than the Existing Facility modifications).

"***Train 2 Expansion Site***" means those areas where the Train 2 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 3 Expansion***" means the facilities, and all appurtenance related thereto, to be designed, procured and constructed under this Agreement in order to meet the Minimum Acceptance Criteria and Performance Guarantees and includes a nominal four and sixty-four hundredths million tons per annum (4.64 mtpa) natural gas liquefaction unit, a comparably-sized natural gas pretreatment unit near Oyster Creek, Texas, the Train 3 Specific Common Systems (including the Train 3 LNG Storage Tank and certain

modifications to the Existing Facility) and other systems, all as further set forth in this Agreement (particularly Attachment A). For purposes of clarity, the Train 3 Expansion does not include any part of the Existing Facility.

"***Train 3 Expansion Site***" means those areas where the Train 3 Expansion will be located as shown in greater detail in Attachment Y.

"***Train 3 LNG Storage Tank***" means the double walled, full containment LNG storage tank with nominal capacity of 160,000 cubic meters to be designed, procured and constructed in accordance with this Agreement, including the Drawings and Specifications referenced herein or developed hereunder.

"***Train 3 LNG Storage Tank Price***" means Two Hundred Thirty Seven Million Three Hundred Thirty Six Thousand Seven Hundred Sixteen U.S. Dollars ($237,336,716), as such value may be adjusted from time to time by Change Orders executed by the Parties in accordance with this Agreement.

"***Train 3 Specific Common Systems***" means those portions of the Work which will be utilized by the Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion, including, for example, certain utilities, instruments, control systems and piping as well as the Train 3 LNG Storage Tank. The Train 3 Specific Common Systems will be designed, procured and constructed under this Agreement such that the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion may be operated simultaneously or individually at the design conditions set forth in this Agreement (with respect to the Train 3 Expansion), the design conditions set forth in the Train 1 EPC Agreement (with respect to the Train 1 Expansion) and the design conditions set forth in the Train 2 EPC Agreement (with respect to the Train 2 Expansion). The Train 3 Specific Common Systems are listed in Sections 4.1.1 and 4.2.1 of Schedule A-1.

"***Train 3 Specific Common Systems Contract Price Component***" has the meaning set forth in Section 7.2A.

"***Train 3 Specific Contract Price Component***" has the meaning set forth in Section 7.2B.

"***Train 3 Specific Work***" means that portion of the Work that directly benefits, or is necessary for, the Train 3 Expansion only and does not provide any benefit, and is not otherwise necessary, for the Train 1 Expansion or the Train 2 Expansion. For clarity, the Train 3 Specific Work is all Work performed under this Agreement that is not associated with the Train 3 Specific Common Systems.

"***Train 3 Project***" has the meaning set forth in the Recitals.

"***Train 3 Project Schedule***" means the schedule of dates in which Contractor is required to achieve certain stages of completion of the Train 3 Expansion, including the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Guaranteed Record As-Built Delivery Date and the Schedule Milestones, as more particularly described in Sections 3.3F and 5.3 and Attachment E.

"***Unforeseen Subsurface Condition***" means any unforeseen (i) caverns or seismic faults, (ii) material subsurface obstructions, whether manmade or natural, or (iii) subsurface fossils, antiquities or other archeological finds, which, in the case of any of the above, were encountered by Contractor in the performance of the Work and (a) were not identified in any soils information or any other documents provided to Contractor by Owner, (b) were not discovered or reasonably discoverable by Contractor or any of its Subcontractors or Sub-subcontractors, acting in accordance with GECP, from inspections, investigations or work performed by Contractor or any of its Subcontractors or Sub-subcontractors prior to the Effective Date and (c) with respect to (i) and (ii) only, are materially different from those that are reasonably expected to be encountered due to the nature of the Site.

"***Updated Contract Price and Train 3 Project Schedule Proposal***" has the meaning set forth in Section 5.2C.1.

"***U.S. Dollars***" or "***U.S.$***" means the legal tender of the United States of America.

"***Value of Foreign Currency***" has the meaning set forth in Section 7.10B.

"***Warranty***" or "***Warranties***" has the meaning set forth in Section 12.1A.

"***Weekly Progress Report***" has the meaning set forth in Section 3.19A.3.

"***Work***" means all obligations, duties and responsibilities required of Contractor pursuant to this Agreement, including all Equipment, Train 3 Specific Common Systems, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, procurement, engineering, design, fabrication, erection, installation, manufacture, delivery, transportation, storage, construction, workmanship, labor, pre-commissioning, commissioning, inspection, training, Performance Tests, other tests, start-up and any other services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Agreement, including that set forth in Attachment A and Section 3.1A and any Corrective Work.

"***Work Breakdown Structure***" has the meaning set forth in Section 7.8.

"***Work Product***" has the meaning set forth in Section 10.1A.

"***30 Day Look-ahead Schedule***" has the meaning set forth in Section 5.4D.

"***Zachry***" has the meaning set forth in Section 21.21.

"***Zachry Guarantor***" means Zachry Holdings, Inc.

1.2 The meanings specified in this Article 1 are applicable to both the singular and plural. As used in this Agreement, the terms "herein," "herewith," "hereunder" and "hereof" are references to this Agreement taken as a whole, and the terms "include," "includes" and "including" mean "including, without limitation," or variant thereof. Unless expressly stated

otherwise, reference in this Agreement to an Article or Section shall be a reference to an Article or Section contained in this Agreement (and not in any Attachments or Schedules to this Agreement) and reference in this Agreement to an Attachment or Schedule shall be a reference to an Attachment or Schedule attached to this Agreement.

ARTICLE 2
RELATIONSHIP OF OWNER, CONTRACTOR AND SUBCONTRACTORS

2.1 **Status of Contractor**. The relationship of Contractor to Owner shall be that of an independent contractor. Any provisions of this Agreement which may appear to give Owner or the Owner Representative the right to direct or control Contractor as to details of performing the Work, or to exercise any measure of control over the Work, shall be deemed to mean that Contractor shall follow the desires of Owner or the Owner Representative in the results of the Work only and not in the means by which the Work is to be accomplished, and Contractor shall have the complete right, obligation and authoritative control over the Work as to the manner, means or details as to how to perform the Work. Nothing herein shall be interpreted to create a master-servant or principal-agent relationship between Contractor, or any of its Subcontractors or Sub-subcontractors, and Owner. Nevertheless, Contractor shall strictly comply with all provisions, terms and conditions of this Agreement, and the fact that Contractor is an independent contractor does not relieve it from its responsibility to fully, completely, timely and safely perform the Work in strict compliance with this Agreement.

2.2 **Key Personnel, Organization Chart and Contractor Representative**.

A. ***Key Personnel and Organization Chart***. Attachment F sets forth Contractor's organizational chart to be implemented for the Work and also contains a list of key personnel ("***Key Personnel***" or "***Key Persons***") from Contractor's organization who will be assigned to the Work. For clarity, the Parties agree and acknowledge that the Key Personnel shall include the Senior Supervisory Personnel in addition to those personnel identified in Attachment F. Owner and Contractor acknowledge and agree the continuity of Key Personnel on this Train 3 Project is a material requirement of this Agreement and that replacement of a Key Person will be detrimental to the Owner and the overall quality of the Work. Key Personnel shall be devoted full-time to the Work for the applicable period of time specified in Attachment F (provided that, Owner acknowledges that a Key Person performing functions related to Train 3 Expansion may also be performing work under a similar role under the Train 1 EPC Agreement and the Train 2 EPC Agreement), and Key Personnel shall not be removed or reassigned without Owner's prior written approval. All requests for the substitution of Key Personnel shall include a detailed explanation and reason for the request and the resumes of professional education and experience for a minimum of two (2) candidates of suitable qualifications and experience. Should Owner approve of the replacement of a Key Person, Contractor shall allow for an overlap of two (2) weeks during which both the Key Person to be replaced and the Owner-approved new Key Person shall work together full time. The additional cost of any replacement of such Key Personnel and overlap time shall be entirely at Contractor's expense. Owner has the right, but not the obligation, to require Contractor to remove or cause to be removed

a Key Person who is not, in Owner's reasonable judgment, using GECP in the performance of the portion of the Work assigned to such Key Person.

B. ***Contractor Representative***. Contractor designates Chet Lloyd as the Contractor Representative. The Contractor Representative is a Key Person. The Contractor Representative under this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement shall be the same Person unless otherwise agreed by Owner in writing.

2.3 **Subcontractors and Sub-subcontractors**. Owner acknowledges and agrees that Contractor intends to have portions of the Work accomplished by Subcontractors pursuant to written Subcontracts between Contractor and such Subcontractors, and that such Subcontractors may have certain portions of the Work performed by Sub-subcontractors. All Subcontractors and Sub-subcontractors shall be reputable, qualified firms with an established record of successful performance in their respective trades performing identical or substantially similar work. Except as otherwise set forth in this Agreement, the provisions of Subcontracts and Sub-subcontracts shall, so far as reasonably practicable, be consistent with the provisions of this Agreement. The provisions of any Subcontract or Sub-subcontract shall not relieve Contractor of any obligations to perform the Work or of its responsibility for each Subcontractor and Sub-subcontractor. NO SUBCONTRACTOR OR SUB-SUBCONTRACTOR IS INTENDED TO BE OR SHALL BE DEEMED A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT. Contractor shall be fully responsible to Owner for the acts and omissions of Subcontractors and Sub-subcontractors and of Persons directly or indirectly used by any of them, as Contractor is for the acts or omissions of Persons directly employed by Contractor in the performance of the Work. The work of any Subcontractor or Sub-subcontractor shall be subject to inspection by Owner or Lender to the same extent as the Work of Contractor. All Subcontractors and Sub-subcontractors and their respective personnel that are performing Work at the Site are to be instructed by Contractor in the terms and requirements of Owner-approved safety and environmental protection policies and procedures for Work at the Site and shall be expected to comply with such policies and procedures. In the event that any personnel do not adhere to such policies and procedures, such personnel shall be removed by Contractor. In no event shall Contractor be entitled to any adjustment of the Contract Price or Train 3 Project Schedule as a result of compliance with such policies and procedures or any removal of personnel necessitated by non-compliance. Nothing contained herein shall (i) create any contractual relationship between any Subcontractor and Owner, or between any Sub-subcontractor and Owner, or (ii) obligate Owner to pay or cause the payment of any amounts to any Subcontractor or Sub-subcontractor. For purposes of sales and use taxes for the State of Texas, all Subcontracts and Sub-subcontracts will be separated contracts pursuant to Tex. Tax Code § 151.056(b) and 34 Tex. Admin. Code Rule § 3.291(a)(13). In addition, to the extent that any Work under this Agreement will be performed under Subcontracts or Sub-subcontracts that also include scopes of work performed for the Train 1 Expansion and Train 2 Expansion, then such Subcontract and Sub-subcontract documentation (including scopes of work, cost and schedule-related information) shall be capable of being segregated into documentation relating to work specific to the Train 1 Expansion, work specific to the Train 2 Expansion, work common to the Train 1 Expansion and Train 2 Expansion, and the Work performed under this Agreement.

2.4 **Subcontracts and Sub-subcontracts**.

A. ***Approved List***. Part I of Attachment G sets forth a list of Subcontractors and Sub-subcontractors that Contractor and Owner have agreed are approved Subcontractors and Sub-subcontractors for the performance of that portion of the Work specified in Part I of Attachment G. As further set forth in Attachment G, a Subcontractor or Sub-subcontractor that is listed in Part I shall be utilized for the applicable portion of the Work unless Owner otherwise agrees in writing. Part II of Attachment G sets forth portions of the Work whose Subcontractors and Sub-subcontractors may not otherwise meet the value thresholds to be Major Subcontractors or Major Sub-subcontractors but that the Parties nevertheless agree that such Subcontractors and Sub-subcontractors are Major Subcontractors and Major Sub-subcontractors for purposes of performing such Work scopes. Approval by Owner of any Subcontractors or Sub-subcontractors does not relieve Contractor of any responsibilities under this Agreement.

B. ***Additional Proposed Major Subcontractors and Major Sub-subcontractors***. In the event that Contractor is considering the selection of a Subcontractor or Sub-subcontractor not listed on Attachment G that would qualify as a Major Subcontractor or Major Sub-subcontractor, Contractor shall (i) notify Owner of its proposed Major Subcontractor or Major Sub-subcontractor as soon as possible during the selection process and furnish to Owner all information reasonably requested by Owner with respect to Contractor's selection criteria (including copies of bid packages furnished to prospective Major Subcontractors and Major Sub-subcontractors and the qualifications and responding bids (with pricing redacted) of the proposed Major Subcontractors or Major Sub-subcontractors), and (ii) notify Owner no less than fourteen (14) Days prior to the execution of a Major Subcontract with a Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor not listed on Attachment G. Owner shall have the discretion, not to be unreasonably exercised, to reject any proposed Major Subcontractor or Major Sub-subcontractor not listed on Attachment G for a Major Subcontract or Major Sub-subcontract. Contractor shall not enter into any Major Subcontract with a proposed Major Subcontractor or Major Sub-subcontract with a Major Sub-subcontractor that is rejected by Owner in accordance with the preceding sentence. Owner shall undertake in good faith to review the information provided by Contractor pursuant to this Section 2.4B expeditiously and shall notify Contractor of its decision to accept or reject a proposed Major Subcontractor or Major Sub-subcontractor as soon as practicable after such decision is made. Failure of Owner to accept a proposed Major Subcontractor or Major Sub-subcontractor within fourteen (14) Days shall be deemed to be a rejection of such Major Subcontractor or Major Sub-subcontractor.

C. ***Other Additional Proposed Subcontractors and Sub-subcontractors***. For any Subcontractor not covered by Sections 2.4A or 2.4B, Contractor shall, prior to the selection of any such Subcontractor, notify Owner in writing of the selection of such Subcontractor and inform Owner generally what portion of the Work such Subcontractor is performing.

D. ***Delivery of Major Subcontracts and Major Sub-subcontracts***. Contractor shall furnish Owner with a copy of all Major Subcontracts and Major Sub-subcontracts (which price may be redacted from such copies) within ten (10) Days after execution thereof and, within ten (10) Days of Owner's request, furnish Owner with a copy of any other Subcontracts or Sub-subcontracts (which price may be redacted from such copies). Notwithstanding the above, Owner's receipt and review of any Subcontracts or Sub-subcontracts shall not relieve the Contractor of any obligations under this Agreement nor shall such action constitute a waiver of any right or duty afforded Owner under this Agreement or approval of or acquiescence in a breach hereunder.

E. ***Terms of Major Subcontracts and Major Sub-subcontracts***. In addition to the requirements in Section 2.3 and without in any way relieving Contractor of its full responsibility to Owner for the acts and omissions of Subcontractors and Sub-subcontractors used in the performance of the Work, Contractor shall:

1. Include in each Major Subcontract and each Major Sub-subcontract a provision that each such Major Subcontract and Major Sub-subcontract may be assigned to Owner without the consent of the respective Major Subcontractor or Major Sub-subcontractor; and

2. Use reasonable commercial efforts to include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to comply with and perform for the benefit of Owner all requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract; *provided, however*, as a minimum (and without relieving Contractor of its responsibility for each Major Subcontractor and Major Sub-subcontractor), Contractor must include in each Major Subcontract and Major Sub-subcontract a provision requiring each such Major Subcontractor and Major Sub-subcontractor to substantially comply with and perform for the benefit of Owner the following requirements and obligations of Contractor to Owner under this Agreement, as such requirements and obligations are applicable to the performance of the work under the respective Major Subcontract or Major Sub-subcontract:

(i) For all Major Subcontractors and Major Sub-subcontractors: Article 10 and Article 19; Sections 2.5C, 3.3, 3.8, 3.13, 3.16, 3.18, 8.1, 16.2, 16.3, 17.1B, 21.15, 21.17 and 21.18; for Interim Lien and Claim Waivers in Section 7.3C and Final Lien and Claim Waivers in Section 7.4 (except Interim and Final Lien and Claim Waivers are not required from Sub-subcontractors who are Equipment suppliers or manufacturers that do not perform Work at the Site); and in substance the same as Section 2.3, including that there is no contractual relationship between Owner and any Major Subcontractor or Major Sub-subcontractor and that Owner has no

obligation to pay or cause to pay the payment to any Major Subcontractor or Major Sub-subcontractor.

(ii) For all Major Subcontractors and Major Sub-subcontractors performing Work at the Site: Article 17 (except for Section 17.1B) and Sections 3.6, 3.7, 3.10, 3.17, 3.24, 3.25, 3.27, 9.1, and Attachment O, in addition to the requirements and obligations set forth in Section 2.4E.2(i).

F. ***Owner's Right to Terminate***. Owner shall be entitled to require Contractor to immediately terminate any Subcontract or Sub-subcontract if any Subcontractor or Sub-subcontractor (as applicable) fails to comply in any material respect with the policies and procedures set forth in Attachment J, persists in any conduct which is prejudicial to safety, health or the protection of the environment, or fails to perform the Work in accordance with the safety and health rules and standards of Applicable Law. Contractor agrees that it shall have no right, and hereby waives any such right, to claim any increase to the Contract Price or an adjustment to the Train 3 Project Schedule arising out of or due to any such termination.

2.5 **Contractor Acknowledgements**.

A. ***The Agreement***. Prior to the execution of this Agreement, Contractor (through its joint venture parties' CB&I and Zachry) performed engineering, cost estimating and related services and developed and provided the information that forms the Scope of Work and Design Basis listed in Attachment A, which was performed pursuant to the FEED Agreement. Owner has relied upon Contractor's expertise in developing and providing such information. Except with respect to Rely Upon Information identified in Attachment Z, Contractor hereby warrants and represents that such information and the attached Scope of Work and the Design Basis in Attachment A are accurate, adequate and complete for Contractor to engineer, procure, construct, pre-commission, commission, start-up and test a fully operational natural gas treatment, liquefaction, storage and terminal facility for the Contract Price, within the required times set forth in the Train 3 Project Schedule, and in accordance with all requirements of this Agreement, including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees, and that with respect to any information (if any) not so developed or provided by Contractor which is contained in or referenced in Attachment A, Contractor has examined all such information and has determined that it is accurate, adequate and complete. Accordingly, with the exception of Rely Upon Information set forth in Attachment Z, Contractor hereby agrees that it shall have no right to claim or seek an increase in the Contract Price or an adjustment to the Train 3 Project Schedule with respect to any incomplete, inaccurate or inadequate information or requirements that may be contained or referenced in Attachment A, and hereby waives and releases Owner from and against such claims. Owner makes no guaranty or warranty, express or implied, as to the accuracy, adequacy or completeness of any such information that is contained or referenced in Attachment A.

B. ***Conditions of the Site***.

1. In addition to Section 2.5A, Contractor further agrees and acknowledges that it has made all investigations and inspections that it deems necessary to perform the Work in accordance with the Train 3 Project Schedule, has conducted a review of all Site leases and easements that have been provided to Contractor by Owner, and is familiar with the climate, terrain and other difficulties that it may encounter in performing the Work in accordance with the Train 3 Project Schedule. Contractor has the experience, resources, qualifications and capabilities to perform the Work in accordance with the Train 3 Project Schedule. Except as provided for in Sections 2.5B.2 and 6.7A, Contractor assumes all risks related to, and waives any right to claim an adjustment in the Contract Price or the Train 3 Project Schedule in respect of, any failure to timely perform the Work in accordance with the Train 3 Project Schedule as a result of any conditions at the Site or at any other location where the Work is performed, including: (i) river levels (excluding Force Majeure events), topography and subsurface soil conditions; (ii) climatic conditions, tides, and seasons (excluding Force Majeure events); (iii) availability of laborers, Subcontractors, Sub-subcontractors, equipment or any other items or supplies; (iv) adequate availability and transportation of Equipment; and (v) breakdown or other failure of equipment under the control of or provided by Contractor or its Subcontractors or Sub-subcontractors.

2. Contractor assumes all risks related to, and waives any right to claim an adjustment for, any and all subsurface conditions of whatever nature or condition, except as expressly provided in this Section 2.5B.2:

(i) *Piles.* The Contract Price and Train 3 Project Schedule are based on 6,162 total piles, having the composition, size and length shown in Section 1 of Attachment HH, supporting all portions of the Train 3 Expansion ("***Piles***"). In accordance with Section 2 of Attachment HH, Contractor shall conduct pile tests on an area by area basis to confirm the number, size, length and type of the Piles in accordance with Section 2 of Attachment HH. Based on the pile test report for an area, if the number of Piles in such area is different than that stated in this Section 2.5B.2(i) and Section 1 of Attachment HH, then a Change Order shall be executed adjusting the Contract Price and Train 3 Project Schedule as follows:

(a) If the Pile test report in an area shows that a change in the number of Piles is necessary to achieve the load bearing capacity noted in Section 1 of Attachment HH, the Contract Price shall be respectively increased or decreased by Change Order as provided in Section 3 of Attachment HH. This adjustment process shall be performed on an area-by-area basis as further set forth in Attachment HH;

(b) After conducting all of the Pile tests for the Site, if the total number of Piles for the Train 3 Expansion is either (i) ten percent (10%) or more greater than 6,162 Piles or (ii) ten percent (10%) or more less than 6,162 Piles, as a result of the cumulative findings of the Pile test reports described in clause (a) above, the Train 3 Project Schedule shall be evaluated and extended if and to the extent permitted under Section 6.8 (in the case of clause (i)) or decreased (in the case of clause (ii)); and

(c) Except as provided in clauses (a) and (b) above, Contractor is not entitled to any other adjustments to the Contract Price, Train 3 Project Schedule or any other Changed Criteria arising out of or relating to the Piles.

(ii) *Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.*

(a) *Identified Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* Prior to the Effective Date, Contractor received from Owner or developed under the FEED Agreement documentation showing the location of any subsurface utilities, subsurface obstructions, caverns, seismic faults and subsurface archeological finds, as described in more detail in Attachment BB. After the Effective Date but prior to performance of construction of any Work near any such identified subsurface utilities, obstructions, caverns, seismic faults or archeological finds, Contractor shall, exercising GECP, verify all locations of such identified subsurface utilities, obstructions, caverns, seismic faults and archeological finds, and Contractor shall be entitled to a Change Order adjusting the Contract Price and the Train 3 Project Schedule for any locations of Unforeseen Subsurface Conditions that are materially different than the information described in such documents and adversely affect Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, *provided that*, Contractor complies with the notice and Change Order request requirements set forth in Section 6.5, Contractor uses reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.8. After the commencement of construction, Contractor waives all risks and waives any right to claim an adjustment in the Contract Price or Train 3 Project Schedule with respect to any additional costs or delay incurred by Contractor or any Subcontractor or Sub-subcontractor during the construction of the Train 3 Expansion in

connection with any location of any subsurface utility, obstruction or archeological find inaccurately shown on such documents.

(b) *Unknown Subsurface Utilities, Subsurface Obstructions and Subsurface Archeological Finds.* If Contractor encounters an Unforeseen Subsurface Condition that adversely affects Contractor's actual costs (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement of this Agreement, Contractor shall be entitled to a Change Order adjusting the Contract Price and Train 3 Project Schedule, *provided that* Contractor complies with the notice and Change Order request requirements set forth in Section 6.5, Contractor uses all reasonable efforts not to disturb such subsurface conditions prior to Owner's investigation, and with respect to claims for costs for delay or schedule relief for delay, satisfies the requirements under Section 6.8.

C. ***Applicable Law and Applicable Codes and Standards***. Contractor has investigated to its satisfaction Applicable Law and Applicable Codes and Standards and represents that it can perform the Work at the Contract Price and within the Train 3 Project Schedule in accordance with Applicable Law and Applicable Codes and Standards. Contractor shall perform the Work in accordance with Applicable Law and Applicable Codes and Standards, whether or not such Applicable Law or Applicable Codes and Standards came into effect before the Effective Date or during the performance of the Work; *provided, however*, (i) Contractor shall be entitled to a Change Order for Changes in Law (including Applicable Codes and Standards incorporated into Applicable Law) to the extent allowed under Section 6.2A.8, and (ii) the Parties shall follow the procedure in Section 2.5C.1 with respect to changes that occur after the Effective Date in Applicable Codes and Standards that are not incorporated into Applicable Law. Except for any Changes in Law for which Contractor is entitled to a Change Order under Section 6.2A.8, Contractor hereby waives any right to make any claim for adjustment of the Contract Price or the Train 3 Project Schedule in relation to any Changes in Law or change to any Applicable Codes and Standards.

1. If a change occurs in any Applicable Code and Standard after the Effective Date and such Applicable Code and Standard is not incorporated into any Applicable Law, Contractor shall give Owner written notice of such change in accordance with the requirements of Section 6.5, which such notice shall include a reasonably detailed description of the impact of the change (if any) on the Train 3 Project or any Changed Criteria. Within ten (10) Days after Owner's receipt of such notice, the Parties shall meet to discuss the implications (if any) of such change in Applicable Code and Standard and shall agree upon an appropriate course of action.

D. ***Three Train Expansion Facility***. Contractor acknowledges that certain joint venture members of Contractor, CB&I and Zachry, are performing the engineering,

procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 1 Expansion and the Train 2 Expansion in accordance with the Train 1 EPC Agreement and Train 2 EPC Agreement, respectively. Further, Contractor acknowledges and agrees that the Train 1 Expansion and the Train 2 Expansion (including the T1/T2 Common Systems) shall be designed, procured, constructed, commissioned and started-up in a manner that will accommodate, support and be capable of fully integrating the Train 3 Expansion, such that the T1/T2 Common Systems have sufficient capacity to support the full integration and operations of the Train 3 Expansion, including the Train 3 LNG Storage Tank, without further modifications to the Train 1 Expansion or Train 2 Expansion under this Agreement. Prior to the execution of this Agreement, Contractor has independently examined all information necessary to verify, and has so verified, that the Train 1 Expansion and the Train 2 Expansion is capable of accommodating, supporting and fully integrating the Train 3 Expansion and its operations in such manner. Owner has relied upon Contractor's expertise in examining and verifying such information. Accordingly, with the exception of Section 2.5D.1, Contractor (i) hereby agrees that it shall have no right to claim or seek an increase in the Contract Price, an adjustment to the Train 3 Project Schedule or a modification to any other Changed Criteria under this Agreement with respect to the Train 1 Expansion's or the Train 2 Expansion's (including the T1/T2 Common Systems) inability to accommodate or support the full integration and operations of the Train 3 Expansion, (ii) hereby waives and releases Owner from and against any and all such claims, including any claims that the Train 3 Expansion's is unable to meet the requirements of this Agreement (including Applicable Codes and Standards, Applicable Law, the Warranties, Minimum Acceptance Criteria, and Performance Guarantees), directly or indirectly, as a result of the design, procurement, construction, pre-commissioning, commissioning, start-up, testing or operations of either or both of the Train 1 Expansion and the Train 2 Expansion, and (iii) hereby agrees that it will perform under this Agreement any and all work, services and modifications (including design, engineering, procurement, pre-commissioning, commissioning, testing and startup) necessary so that T1/T2 Common Systems have sufficient capacity to support the Train 3 Expansion and enable the Train 3 Expansion to meet all requirements under this Agreement. Owner makes no guaranty or warranty, express or implied, as to the ability of the Train 1 Expansion or Train 2 Expansion (including the T1/T2 Common Systems) to accommodate or support the full integration and operation of the Train 3 Expansion.

1. If FLIQ1 or FLIQ2 issues a unilateral change order (as such term is defined under the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively), and the directive from such unilateral change order degrades the ability of the Train 1 Expansion or Train 2 Expansion (including the T1/T2 Common Systems) to accommodate or support the full integration and operations of the Train 3 Expansion, Contractor shall provide a written notice to Owner no later than ten (10) Days following issuance of such unilateral change order. Such written notice shall meet the requirements of Section 6.5, including a reasonably detailed description of the impact of such unilateral change order on the Train 3 Project or any Changed Criteria. If Contractor provides such written notice in accordance with this Section 2.5D.1 and

FLIQ1 or FLIQ2 subsequently fails to withdraw such unilateral change order (or alternatively, fails to modify such unilateral change order to remove those requirements identified by Contractor which cause such degradation of the Train 1 Expansion or Train 2 Expansion), Contractor shall be entitled to request a Change Order to the extent allowed under Section 6.8 and to the extent that such unilateral change order actually does degrade the ability of the Train 1 Expansion or Train 2 Expansion to accommodate or support the full integration and operations of the Train 3 Expansion. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 2.5D.1, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 3 Project Schedule, or any other Changed Criteria.

E. ***Hydrotest Source Water***. The Contract Price is based upon certain water quality assumptions for the hydrotest water to be used in the Train 3 LNG Storage Tank hydrotest and the amount, type and nature of the filtering, screening and conditioning of such hydrotest water. Attachment LL sets forth the assumed quality specifications and allows for a Change Order to adjust the Contract Price for any difference in cost attributable to differences in water quality requiring changes to the filtering, screening and conditioning of the water.

ARTICLE 3
CONTRACTOR'S RESPONSIBILITIES

3.1 **Scope of Work**.

A. ***Generally***. Subject to Section 3.1B, the Work shall be performed on a turnkey basis and shall include all engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of the Train 3 Expansion, all Equipment, construction equipment (including materials, apparatus, structures, supplies, tools, machinery, equipment and scaffolding), spare parts, labor, workmanship, inspection, manufacture, fabrication, installation, design, delivery, transportation, storage, training of Owner's operations and maintenance personnel and all other items or tasks that are set forth in Attachment A, or otherwise required to achieve RFSU, RLFC, Substantial Completion and Final Completion of the Train 3 Expansion in accordance with the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees. Contractor shall be required to integrate and use Owner's operations and maintenance personnel (which are provided by Owner pursuant to Section 4.4) in Contractor's pre-commissioning, commissioning, testing and start-up efforts. Contractor shall perform the Work in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, with the explicit understanding that the Expansion Facility will operate as an LNG liquefaction, storage and export terminal facility meeting all requirements and specifications of this Agreement, and that the Existing Facility will continue to operate as an LNG receiving, storage and regasification facility. It is understood and agreed that the Work shall include any incidental work that can reasonably be inferred as required

and necessary to complete the Train 3 Expansion in accordance with GECP, Applicable Law, Applicable Codes and Standards, and all other terms and provisions of this Agreement, excluding only those items which Owner has specifically agreed to provide under the terms of this Agreement. Without limiting the generality of the foregoing, the Work is more specifically described in Attachment A.

B. ***Exception to Scope of Work***. Contractor shall not be responsible for providing (i) those Permits that Owner has agreed to provide under Section 4.2; (ii) those requirements set forth under Sections 4.3, 4.4, 4.5 and 4.8; (iii) legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point pursuant to Section 4.7; and (iv) LNG Tankers for start-up, commissioning and Performance Tests in accordance with Section 11.1B.

3.2 **Specific Obligations**. Without limiting the generality of Section 3.1 or the requirements of any other provision of this Agreement, Contractor shall:

A. procure, supply, transport, handle, properly store, assemble, erect and install all Equipment;

B. provide construction, construction management (including the furnishing of all field supplies, tools, construction equipment, and all Site supervision and craft labor), civil/structural, electrical, instrumentation, field design, inspection and quality control services required to ensure that the Work is performed in accordance herewith;

C. negotiate all guarantees, warranties, delivery schedules and performance requirements with all Subcontractors so that all Subcontracts are consistent with this Agreement, as set forth in Sections 2.3 and 2.4;

D. perform shop and other inspections of the work of Subcontractors and Sub-subcontractors to ensure that such work meets all of the requirements of this Agreement;

E. pay Subcontractors in a timely fashion in accordance with the respective Subcontracts;

F. pay all Contractor's Taxes incurred in connection with the Work in a timely fashion;

G. ensure that the Work is performed in accordance with the Train 3 Project Schedule;

H. conduct and manage all pre-commissioning, start-up operations, commissioning, Performance Tests and other testing of the Train 3 Expansion, while supervising operations and maintenance personnel provided by Owner;

I. obtain all Permits required per Section 3.12;

J. provide reasonable, prompt assistance, information and documentation required or requested by Owner to enable Owner to obtain or modify the Permits listed in Attachment Q;

K. provide training and certification for Owner's operating and maintenance personnel per Section 3.5;

L. replace any Subcontractor(s) who fails to perform its Subcontract obligations;

M. cooperate with and respond promptly to inquiries from Owner;

N. provide information and any other assistance reasonably requested by Owner with respect to Owner's contracting and interfacing with CenterPoint, including providing, on a timely basis, all information needed by CenterPoint regarding electrical demands of the Expansion Facility and specifying to CenterPoint all requirements of Contractor as well as review of any information provided by CenterPoint (including interface conditions) and attendance at meetings between Owner and CenterPoint;

O. be responsible for connecting the Train 3 Expansion (including designing, engineering and constructing the interconnections) to the permanent utilities to the extent set forth in Attachment A;

P. interface and cooperate with Owner's other contractors (which activities shall be coordinated by Owner; *provided that*, for the avoidance of doubt, "Owner's other contractors" shall not include the T1/T2 EPC Contractor, whose activities shall be coordinated by Contractor), and provide necessary Drawings, Specifications and other information for interconnections to the Train 3 Expansion, including interconnections for the natural gas feed pipeline for the natural gas pretreatment facility, the natural gas liquids pipeline and the natural gas vapor return pipeline;

Q. supply all initial permanent (*i.e.*, non-startup) fills; and

R. perform, or cause to be performed, all design and engineering Work in accordance with this Agreement, including that specified in Section 3.3.

3.3 **Design and Engineering Work**.

A. ***General***. Contractor shall, as part of the Work, perform, or cause to be performed, all design and engineering Work in accordance with this Agreement and cause the Work to meet and achieve the requirements of this Agreement, including achieving the Minimum Acceptance Criteria and Performance Guarantees.

B. ***Drawings and Specifications***. Upon receipt of a limited notice to proceed ("***Limited Notice to Proceed***" or "***LNTP***") or the full notice to proceed ("***Notice to Proceed***" or "***NTP***") issued in accordance with Section 5.2, Contractor shall commence the preparation of the Drawings and Specifications for all Work relating to such LNTP or NTP. The Drawings and Specifications shall conform and comply with the

requirements of this Agreement, including the Scope of Work, Design Basis, GECP, Applicable Codes and Standards, Applicable Law, and all applicable provisions of this Agreement.

C. ***Review Process***.

1. *Over-the-Shoulder Review*. During the development of the Drawings and Specifications, Contractor shall provide Owner with the opportunity to perform "over-the-shoulder" reviews of the design and engineering in progress. Such reviews may be conducted at Contractor's office located in Houston, Texas, at any of its Subcontractor's or Sub-subcontractor's offices, or remotely by electronic internet access. The reviews may be of progress prints, computer images, draft documents, working calculations, draft specifications or reports, Drawings, Specifications or other design documents determined by Owner.

2. *Submission by Contractor*. Contractor shall submit copies of the Drawings and Specifications to Owner for formal review, comment, disapproval and approval in accordance with Attachment B.

3. *Review Periods*. Owner shall have up to ten (10) Business Days from its receipt of Drawings and Specifications submitted in accordance with Section 3.3C.2 to issue written comments, proposed changes and/or written approvals or disapprovals of the submission of such Drawings and Specifications to Contractor.

4. *No Owner Response*. If Owner does not issue any comments, proposed changes or written approvals or disapprovals within such time periods, Contractor may proceed with the development of such Drawings and Specifications and any construction relating thereto.

5. *Disapproval by Owner*. In the event that Owner disapproves the Drawings or Specifications, Owner shall provide Contractor with a written statement of the reasons for such rejection within the time period required for Owner's response for disapproval of Drawings and Specifications. Contractor shall provide Owner with revised and corrected Drawings and Specifications as soon as possible thereafter and Owner's rights with respect to the issuing of comments, proposed changes or approvals or disapprovals of such revised and corrected Drawings or Specifications are governed by the procedures specified above in this Section 3.3C; *provided that* Contractor shall not be entitled to any extensions of time to the Train 3 Project Schedule, an adjustment to the Contract Price or any adjustment to any other Changed Criteria; *provided further, however*, to the extent Owner's disapproval of the Drawings or Specifications is due to one or more material changes by Owner to any such Drawings or Specifications, and not the result of such Drawings or Specifications non-compliance with the requirements of this Agreement, Contractor shall be entitled to a Change Order to the extent such Owner-

required change adversely affects the Train 3 Project Schedule and/or the Contract Price and Contractor complies with and meets the requirements under Article 6.

6. *Approval or Non-Response by Owner*. Upon Owner's written approval of the Drawings and Specifications, or in the event that Owner does not issue any comments, proposed changes or written approval or disapprovals of such Drawings and Specifications pursuant to Section 3.3C.4, such Drawings and Specifications shall be the Drawings and Specifications that Contractor shall use to construct the Work; *provided that* Owner's review or approval of any Drawings and Specifications (or Owner's lack of comments or written approval thereof) shall not in any way be deemed to limit or in any way alter Contractor's responsibility to perform and complete the Work in strict accordance with the requirements of this Agreement, and in the event that there is a discrepancy, difference or ambiguity between the terms of this Agreement and any Drawings and Specifications, the interpretation imposing the greater obligation on Contractor shall control. Due to the limited time for Owner's review of Drawings and Specifications, Contractor's or its Subcontractors' or Sub-subcontractors' expertise in the Work and Owner's reliance on Contractor to prepare accurate and complete Drawings and Specifications, Contractor recognizes and agrees that Owner is not required or expected to make detailed reviews of Drawings and Specifications, but instead Owner's review of Drawings and Specifications may be of only a general, cursory nature. Accordingly, any review or approval given by Owner under this Agreement, or any non-response under Section 3.3C.4, with respect to any Drawings or Specifications shall not in any way be, or deemed to be, an approval of any Work, Drawings or Specifications not meeting the requirements of this Agreement, as Contractor has the sole responsibility for performing the Work in accordance with this Agreement.

D. ***Design Licenses***. Contractor shall perform, or cause to be performed, all design and engineering Work in accordance with Applicable Law and Applicable Codes and Standards, and all Drawings, Specifications and design and engineering Work shall be signed and stamped by design professionals licensed in accordance with Applicable Law.

E. ***CAD Drawings***. Unless otherwise expressly provided under this Agreement, all Drawings and Record As-Built Drawings and Specifications prepared by Contractor or its Subcontractors or Sub-subcontractors under this Agreement shall be prepared using computer aided design ("***CAD***"). All CAD drawing files shall be in fully operable and editable AutoCAD.dwg (Version 10) or Intergraph 3D model in native format. Contractor shall use best efforts to also provide Drawings, including Record As-Built Drawings and Specifications, in other formats requested by Owner.

F. ***As-Built Drawings and Specifications***. During construction, Contractor shall keep a redlined, marked, up-to-date set of As-Built Drawings and Specifications on

the Site as required under Attachment B. Contractor shall deliver to Owner the Record As-Built Drawings and Specifications in accordance with Attachment B, which shall include delivery of final as-built drawing files in fully operable and editable AutoCAD.dwg (Version 10) format or other format as agreed by Owner for Record As-Built Drawings (the "***Record As-Built Delivery Requirement***"). The Record As-Built Delivery Requirement shall include Record As-Built Drawings and Specifications for the entire Train 3 Expansion (including all Train 3 Specific Common Systems). The Record As-Built Delivery Requirement shall be achieved by Contractor no later than ninety (90) Days after Substantial Completion of the Train 3 Expansion (the "***Guaranteed Record As-Built Delivery Date***").

G. ***Other Information***. Contractor shall deliver copies of all other documents required to be delivered pursuant to Attachment B within and in accordance with the requirements and timing set forth in Attachment B.

3.4 **Spare Parts**.

A. ***Commissioning Spare Parts***. Contractor shall provide all pre-commissioning, commissioning, testing and start-up spare parts necessary for the Train 3 Expansion to achieve Substantial Completion and shall, prior to and as a condition precedent to achieving RLFC for the Train 3 Expansion, deliver such spare parts to the Site. The cost associated with all Work related to such pre-commissioning, commissioning, testing and start-up spare parts is included in the Contract Price, including the cost to procure such spare parts and the actual purchase price of such spare parts.

B. ***Capital Spare Parts***. The cost associated with all Work related to procuring the Capital Spare Parts identified in Attachment W (including the purchase price for such Capital Spare Parts) is included within the Contract Price. The Capital Spare Parts shall be delivered to the Site as a condition of Substantial Completion. For purposes of clarity, Capital Spare Parts may be utilized by Contractor prior to achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use.

C. ***Operating Spare Parts***. With respect to operating spare parts for use after Substantial Completion (but only to the extent not taken into consideration by the Capital Spare Parts listed in Attachment W), Contractor shall deliver to Owner for Owner's written approval a detailed list of the manufacturer and Contractor-recommended spare parts for each applicable item of Equipment necessary for operating such Equipment (including components and systems of such Equipment) for two (2) years. Such list shall be provided to Owner for each item of Equipment for which there is manufacturer or Contractor-recommended operating spare parts prior to execution of the applicable Subcontract or Sub-subcontract for such Equipment. Owner shall have ten (10) Business Days to respond to Contractor identifying which operating spare parts, if any, that Owner wishes Contractor to procure as part of its execution of the Subcontract or Sub-subcontract. The cost associated with all Work related to the two (2) years' operating spare parts is included in the Contract Price, except for the actual

purchase price and delivery costs of such spare parts. In the event Owner requests in writing that Contractor procure any operating spare parts on Owner's behalf, Contractor shall be entitled to request a Change Order in accordance with Section 6.2A.6 to increase the Contract Price for the actual purchase price and delivery costs of such requested operating spare parts. For purposes of clarity, operating spare parts may be utilized by Contractor after achievement of Substantial Completion, subject to mutual, written agreement by the Parties of the conditions and requirements related to such use (including replacement of the used operating spare part at Contractor's expense).

3.5 **Training Program in General**. As part of the Work, a reasonable number of personnel designated by Owner in its sole discretion (but not to exceed the number of Persons listed in Attachment V) shall be given training designed and administered by Contractor at its expense, which shall be based on the program requirements contained in Attachment V and shall cover the following topics: (i) the testing of each item of Equipment; (ii) the start-up, operation and shut-down of each item of Equipment; (iii) the performance of routine, preventative and emergency maintenance for each item of Equipment; (iv) spare parts to be maintained for each item of Equipment, and their installation and removal; and (v) any other subject matter reasonably required by Owner. Such training shall include instruction for Owner's operations and maintenance personnel in the operation and routine maintenance of each item of Equipment prior to completion of commissioning of each item of Equipment. As part of the training, Contractor shall provide Owner's operating and maintenance personnel with full access to the Expansion Facility during commissioning, testing and start-up. Training shall be provided by personnel selected by Contractor who, in Contractor's and the Equipment Subcontractor's or Sub-subcontractor's judgment, are qualified to provide such training, and shall take place at such locations and at such times as agreed upon by the Parties. Contractor shall provide trainees with materials described in Attachment V. Contractor shall also provide to Owner all training materials and aids developed to conduct such training in order to facilitate training of Owner personnel hired in the future. Owner agrees that within forty-eight (48) hours after receipt of written notice from Contractor, it shall remove any employee or agent of Owner in the training program who, in Contractor's reasonable opinion, is unsafe, incompetent, careless, incapable of being trained, creates an unsafe or hostile work environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL HAVE NO LIABILITY AND OWNER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM OWNER TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING REQUIREMENTS FOLLOWING A REQUEST BY CONTRACTOR TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Owner shall replace any such employee at its sole cost and expense.

3.6 **Environmental Regulations and Environmental Compliance**. Without limitation of Section 3.1, Contractor is responsible for ensuring that the Work is performed in an environmentally sound manner and in compliance with all provisions of this Agreement regarding the environment and Applicable Law and in compliance with the policies and

procedures set forth in Attachment J. Contractor shall, at its sole cost and expense, dispose of all non-hazardous wastes and Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site (including any laydown areas), or generate from Hazardous Materials brought onto the Site during performance of the Work, which shall be disposed at off-Site disposal facilities approved by Owner and permitted to receive such wastes and Hazardous Materials. Contractor shall report to Owner, as soon as reasonably possible after having knowledge thereof and in no event later than one (1) Day after such occurrence, any violation of the foregoing. In addition to Section 17.1C, Contractor shall, at its sole cost and expense, remediate the release of any Hazardous Materials that Contractor or any of its Subcontractors or Sub-subcontractors bring onto the Site, or generate from Hazardous Materials brought onto the Site, in violation of this Section 3.6.

3.7 **Contractor's Tools and Equipment**. Contractor shall furnish all tools, machinery, structures, scaffolding and other equipment necessary and appropriate for the timely and safe completion of the Work in strict compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all such tools, machinery, structures, scaffolding and equipment owned, rented or leased by Contractor or its Subcontractors or Sub-subcontractors for use in accomplishing the Work. Contractor shall require all insurance policies (including policies of Contractor and all Subcontractors and Sub-subcontractors) in any way relating to such tools, machinery, structures, scaffolding or equipment to include clauses stating that each underwriter will waive all rights of recovery, under subrogation or otherwise, against Owner, Lender and any Owner Affiliates.

3.8 **Employment of Personnel**.

A. Contractor shall not employ, and shall require that any Subcontractor or Sub-subcontractor not employ, in connection with its performance under this Agreement anyone not skilled or qualified to perform the work assigned to such Person. Contractor agrees to promptly remove or reassign (or to require any Subcontractor or Sub-subcontractor to remove or reassign) from its services in connection with the Work any Person performing Work at the Site who does not meet the foregoing requirements. In addition, Contractor agrees that within forty-eight (48) hours after receipt of written notice from Owner, it shall remove from the Work any employee or agent of Contractor or of Contractor's Subcontractors or Sub-subcontractors who, in Owner's reasonable opinion, is unsafe, incompetent, careless, creates an unsafe or hostile work environment, persists in any conduct which is prejudicial to safety, health or the protection of the environment, disregards the terms and conditions of this Agreement, or is interrupting, interfering with or impeding the timely and proper completion of the Work. NOTWITHSTANDING THE FOREGOING, OWNER SHALL HAVE NO LIABILITY AND CONTRACTOR AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COST AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES AND LITIGATION EXPENSES) AND LIABILITIES, OF WHATSOEVER KIND OR NATURE, WHICH MAY DIRECTLY OR INDIRECTLY ARISE OR RESULT FROM CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TERMINATING THE EMPLOYMENT OF OR REMOVING FROM THE WORK ANY SUCH EMPLOYEE WHO FAILS TO MEET THE FOREGOING

REQUIREMENTS FOLLOWING A REQUEST BY OWNER TO HAVE SUCH EMPLOYEE REMOVED FROM THE WORK. Contractor shall replace any such employee at its sole cost and expense.

B. Contractor is responsible for maintaining labor relations in such manner that there is harmony among the employees of Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site. Contractor and its Subcontractors and Sub-subcontractors performing Work at the Site shall conduct their labor relations in accordance with the recognized prevailing local area practices. Contractor shall inform Owner 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. Contractor further agrees to inform Owner, before any commitments are made, during the negotiations of any agreements or understandings with local or national labor organizations. In the event of any labor dispute which threatens to adversely affect the progress of the Work, Owner reserves the right to restrict additional hiring of workers and to suspend or terminate the Work as set forth in Sections 16.3 and 16.2, respectively.

C. Contractor and its Subcontractors and Sub-subcontractors and the personnel of any of them shall not bring onto the Site: (i) any firearm of whatsoever nature (unless prohibited by Applicable Law), knife with a blade exceeding four (4) inches (100 millimeters) in length or any other object which in the sole judgment of Owner is determined to be a potential weapon; (ii) alcoholic beverages of any nature; (iii) any substance that creates a hazard and not related to the Work; (iv) any animal; (v) illegal or Owner-prohibited drugs of any nature; (vi) any drugs (whether prescription or non-prescription) which impair physical or mental faculties; or (vii) any prescription drugs without a valid prescription.

In connection with the enforcement of this Section 3.8C, all employees and agents of Contractor and its Subcontractors and Sub-subcontractors shall successfully complete a drug screening test prior to performing Work at the Site and periodically thereafter, and upon Owner's request, Contactor shall provide Owner with copies of such drug screening tests (subject to any restrictions imposed by Applicable Law). For Contractor, Subcontractor, and Sub-subcontractor employees and agents working in D.O.T-regulated functions, the drug screening policies for such employees and agents shall meet the D.O.T. approved drug and alcohol program requirements. Further, for Contractor, Subcontractor and Sub-subcontractor employees and agents performing "covered functions" (as defined by 49 CFR Part 199), the drug screening policies for such employees and agents shall be compliant with 49 CFR Part 199. Contractor and its Subcontractors and Sub-subcontractors shall abide by and enforce the requirements of this Section 3.8C, and shall promptly remove from the Work any employee or agent of Contractor, Subcontractor or Sub-subcontractor who, in Owner's sole judgment, has violated the requirements of this Section 3.8C. The provisions of Section 3.8A with regard to liability of any of the Owner Indemnified Parties and Contractor's release, indemnification, defense and hold harmless obligations shall apply to the removal of any such Person under this Section 3.8C.

3.9 **Clean-up**. Contractor shall, to Owner's satisfaction, at all times keep the Site free from all waste materials or rubbish caused by the activities of Contractor or any of its Subcontractors or Sub-subcontractors. Without limitation of the foregoing or limiting Contractor's obligations, Contractor shall clean up all such waste materials or rubbish at Owner's request with reasonable notice. As soon as practicable after the completion of all Punchlist items, Contractor shall remove, at its own cost, all of its equipment, materials and other items not constituting (or intended to constitute) part of the Facility and remove all waste material and rubbish from the Site and restore the Site in accordance with all Permits and this Agreement. In the event of Contractor's failure to comply with any of the foregoing, Owner, having given Contractor five (5) Days prior notice, may accomplish the same; *provided, however*, that Contractor shall be liable for and pay to Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole option) all documented, direct costs associated with such removal and/or restoration, including costs associated with permitting, transportation and disposal at an authorized location.

3.10 **Safety and Security**. Contractor recognizes and agrees that safety and physical security are of paramount importance in the performance of the Work and that Contractor is responsible for performing the Work in a safe and physically secure manner. Contractor agrees to implement a safety program that is to be received by Owner for its written approval thirty (30) Days prior to the commencement of the Work at the Site. Contractor further agrees to perform the Work in accordance with the safety and health rules and standards of Applicable Law and such safety program, as approved by Owner, and Contractor shall assume all costs associated with compliance therewith. Contractor's safety program shall include the standards set forth in Attachment J. Owner's review and approval of Contractor's safety program shall not in any way relieve Contractor of its responsibility regarding safety, and Owner, in reviewing and approving such safety program, assumes no liability for such safety program. Contractor shall appoint one or more (as appropriate) safety representative(s) acceptable to Owner who shall be resident at the Site, have responsibility to immediately correct unsafe conditions or unsafe acts associated with the Work and the Train 3 Expansion, act on behalf of Contractor on safety and health matters, and participate in periodic safety meetings with Owner after Work has commenced at the Site. Contractor further agrees to provide or cause to be provided necessary training and safety equipment to its employees, Subcontractors and Sub-subcontractors to ensure their compliance with the foregoing safety and health rules and standards and enforce the use of such training and equipment. Contractor shall maintain all accident, injury and any other records required by Applicable Law or by Owner and shall furnish Owner a Monthly summary of hours worked, injuries and labor hours lost due to injuries. Should Owner at any time observe Contractor, or any of its Subcontractors or Sub-subcontractors, performing the Work in an unsafe manner, or in a manner that may, if continued, become unsafe, then Owner shall have the right (but not the obligation) to require Contractor to stop the Work until such time as the manner of performing the Work has been rendered safe to the satisfaction of Owner; *provided, however*, that at no time shall Contractor be entitled to an adjustment of the Contract Price or Train 3 Project Schedule based on such work stoppage. Contractor shall be responsible for the security, fencing, guarding and lighting of the Train 3 Expansion and the Train 3 Expansion Site (except for those portions of the Train 3 Expansion Site falling within (a) the security perimeter of the Existing Facility, (b) the security perimeter of the Train 1 Expansion upon FLIQ1 (itself or through an Affiliate) taking over and maintaining site security for the Train 1 Expansion pursuant to Section 3.10 of the

Train 1 EPC Agreement, or (c) the security permiter of the Train 2 Expansion upon FLIQ2 (itself or through an Affiliate) taking over and maintaining site security for the Train 2 Expansion pursuant to Section 3.10 of the Train 2 EPC Agreement) until the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 3 Expansion. Upon the introduction of hydrocarbons for the pre-commissioning, commissioning and testing of the Train 3 Expansion, the Train 3 Expansion Site shall be incorporated into the security perimeter of the Existing Facility, the Train 1 Expansion and the Train 2 Expansion maintained by Owner (itself or through its Affiliates) and thereafter access to, and Work therein, will be subject to Owner's (or its Affiliates') site security requirements and other obligations under this Agreement with respect to performing Work in the Existing Facility Site, the Train 1 Expansion Site and the Train 2 Expansion Site as further set forth in Attachment V and Section 3.10B below; *provided that*, Contractor shall be able to continue to utilize its permit-to-work system and safety requirements meeting the requirements of this Agreement until Substantial Completion of the Train 3 Expansion. Nothing in this Section 3.10 shall affect Contractor's status as an independent contractor.

A. All Work performed hereunder shall comply with the minimum federal safety standards for the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of facilities contained in Title 49, Code of Federal Regulations (C.F.R.), Parts 192 (to the extent applicable) and 193 and in Title 33, C.F.R. Part 127. Contractor shall comply with requirements of the Operator Qualification Program that are outlined in Sub-Part H of 49 C.F.R. Part 193 and Sub-Part G of C.F.R. Part 195, where applicable. The term "pipeline facilities" shall include new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of gas, including LNG, or treatment of gas during the course of transportation. The term "transportation of gas" shall include the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

B. Any Work performed on the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreeement) or the Train 2 Expansion Site (after FLIQ2, through itself or an Affiliate, takes over site security within the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) shall be conducted in accordance with the safety and security rules and procedures for the Existing Facility Site, the Train 1 Expansion Site and the Train 2 Expansion Site, as applicable. Each Contractor, Subcontractor or Sub-subcontractor personnel or representative needing access to the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over the site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement) and the Train 2 Expansion Site (after FLIQ2, through itself or an Affiliate, takes over the site security within the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) shall also have valid Transportation Worker Identification Credentials (TWIC card). In addition, each such personnel or representative shall have a valid TWIC card when, and to the extent, all or portions of the Train 3 Expansion Site become regulated by the Transportation Security Administration, which, in any event, shall be no later than when such portion of the Train 3 Expansion Site is incorporated into the security perimeter of the Existing Facility Site, the Train 1 Expansion Site, and the Train 2 Expansion Site pursuant to

Section 3.10. Contractor acknowledges that it has fully investigated the access requirements and procedures for the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or an Affiliate, takes over site security within the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), and the Train 2 Expansion Site (after FLIQ2, through itself of an Affiliate, takes over site security within the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement), as well as its site safety and security rules and procedures, and has taken such requirements, rules and procedures into account in planning the Work to be performed in accordance with the Train 3 Project Schedule. As such, Contractor shall not be entitled to a Change Order to adjust the Contract Price or Train 3 Project Schedule as a result of its personnel's (or that of its Subcontractors or Sub-subcontractors) compliance with such access, safety and security requirements, rules and procedures.

3.11 **Emergencies**. In the event of any emergency endangering life or property in any way relating to the Work, the Facility or the Site, whether on the Site or otherwise, Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage, or loss and shall, as soon as possible, report any such incidents, including Contractor's response thereto, to Owner. If Contractor has not taken reasonable precautions for the safety of the public or the protection of the Work, and such failure creates an emergency requiring immediate action, then Owner, with or without notice to Contractor may, but shall be under no obligation to, take reasonable action as required to address such emergency. The taking of any such action by Owner, or Owner's failure to take any action, shall not limit Contractor's liability. Contractor shall reimburse Owner for the performance of any work or furnishing of any equipment or other items in connection with any emergency in an amount equal to the reasonable costs incurred by Owner in such performance of work or furnishing of equipment or other items.

3.12 **Approvals, Certificates, Permits and Licenses**. Contractor shall obtain the Permits listed in Attachment P as well as (i) those Permits for the Train 3 Project that are required to be maintained in Contractor's (or its Subcontractor's or Sub-subcontractor's) name and (ii) non-project specific Permits necessary for Contractor to do business as a contractor in the State of Texas performing work of the nature contemplated herein. If requested by Owner, Contractor shall provide to Owner within five (5) Days after such request copies of all applications made for any such Permits and all material correspondence received or sent in respect of such applications. Contractor shall provide Owner with copies of such Permits as soon as they are obtained. Contractor shall provide information, assistance and documentation to Owner as reasonably requested in connection with the Permits to be obtained by Owner in Attachment Q.

3.13 **Books, Records and Audits**.

A. Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Agreement or as required under Applicable Law or this Agreement ("***Books and Records***"). Contractor shall maintain all such Books and Records in accordance with generally accepted accounting principles applicable in the

United States 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. To the extent that these Books and Records include information and records related to the Train 1 Expansion and/or Train 2 Expansion, Contractor, to the extent practicable, shall maintain such Books and Records in a manner that would allow them to be segregated into Books and Records relating to the work under the Train 1 EPC Agreement, the work under the Train 2 EPC Agreement and the Work performed under this Agreement; *provided that*, notwithstanding the foregoing, Books and Records relating to all Work performed under any Change Order shall be segregated, as applicable, by the work performed under the Train 1 EPC Agreement and Train 2 EPC Agreement and the Work performed under this Agreement.

B. Upon reasonable notice, Owner, Lender, and any of their representatives, including Lender's independent engineer, shall have the right to audit or to have audited Contractor's Books and Records with respect to (i) any Drawings, Specifications or other technical documents required under this Agreement to be prepared, delivered or maintained by Contractor or any of its Subcontractors; (ii) any documents relating to safety, security, quality or Permits relating to this Agreement; and (iii) any amounts billed under unilateral Change Orders, or under cost reimbursable or unit price Change Orders; *provided*, *however*, that such parties shall not have the right to audit or have audited Contractor's Books and Records in connection with the internal composition of any compensation that is fixed in amount hereunder (including the composition of any markups, unit rates or fixed percentages or multipliers specified in this Agreement). When requested by Owner, Contractor shall provide the auditors with reasonable access to all such Books and Records during normal business hours, and Contractor's personnel shall cooperate with the auditors to effectuate the audit or audits hereunder. The auditors shall have the right to copy all such Books and Records. Contractor shall bear, at its own cost and expense, all costs incurred by it in assisting Owner with audits performed pursuant to this Section 3.13. Contractor shall include audit provisions substantially similar to this Section 3.13 in all Major Subcontracts. The restrictions in this Section 3.13B to the audit rights of Owner, Lender or Lender's independent engineer shall not control over any rights such parties have under Applicable Law, in discovery in any arbitration or litigation arising out of Article 18 or in any litigation or arbitration against Guarantor.

C. Contractor shall not, and shall provide that its Subcontractors, Sub-subcontractors and agents or employees of any of them shall not, without Owner's prior written approval, (i) pay any commissions or fees, or grant any rebates, to any employee, officer or consultant of Owner or its Affiliates, (ii) favor employees, officers or consultants of same with gifts or entertainment of any significant cost or value, or (iii) enter into any business arrangements with employees, officers or consultants of same.

3.14 **Tax Accounting**. Within a reasonable period of time following a request therefor, Contractor shall provide Owner with any information regarding quantities, descriptions and Contractor's prices to Owner for any Equipment installed on or ordered for the Train 3 Expansion and any other information, including Books and Records, as Owner may deem reasonably necessary in connection with the preparation of Owner's tax returns or other

tax documentation or the determination of Equipment that constitutes Tax Exempt Equipment listed in Attachment FF.

A. Contractor acknowledges that Owner is pursuing ad valorem tax abatements through the Texas Commission on Environmental Quality, and upon request Contractor shall provide documentation required or requested by the Texas Commission on Environmental Quality in order for Owner to perfect such abatement related to the cost of Equipment, including Equipment cost, cost of fabrication and design specifications, installation labor costs and overhead and other indirect costs. Documentation may consist of asset name or equipment reference number, a description of the asset, invoice copies showing Subcontractor name, invoice number, delivery date, and purchase amount. If reasonably requested by Owner, Contractor agrees to offer similar assistance to Owner toward any other federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF.

B. In the event that Contractor fails to provide the documentation described in Sections 3.14 and 3.14A, Contractor will be responsible to Owner for any resulting reduction in the tax benefit amount that Owner would otherwise be entitled to receive under the relevant federal, state or local program that is enacted and would allow for a reduction, rebate, or exemption of (i) Taxes or (ii) Texas state or applicable local sales and use tax on Tax Exempt Equipment or on Taxable Equipment listed in Attachment FF. Contractor shall be liable for and shall pay to Owner the amount of such reduction to the extent Owner was otherwise ready and capable of fulfilling all of Owner's compliance obligations and requirements with the applicable taxing entity in a timely fashion.

3.15 **Temporary Utilities, Roads, Facilities and Storage**. Contractor shall provide and pay for all utilities (*e.g.*, electricity (except as provided by Owner pursuant to Section 4.8B), water, communication, cable, telephone, waste and sewer), including all connections and substations, necessary for the performance of the Work, including installation, Permit and usage costs. Contractor shall construct and maintain temporary access and haul roads as may be necessary for the proper performance of this Agreement. Roads constructed on the Site shall be subject to Owner's written approval. Contractor shall provide Owner with office space in accordance with the requirements set forth in Attachment A at the time of Contractor's mobilization at the Site to accommodate Owner's Site representatives and support staff. Contractor shall provide Owner with all office space (as required by Attachment A), construction trailers, utilities, security, telephones, furnishings, and other temporary facilities required for their oversight of the Work, as set forth in more detail in Attachment A. All Equipment and other items comprising part of the Work stored at a location other than on the Site shall be segregated from other goods, and shall be clearly marked as "Property of FLNG Liquefaction 3, LLC."

3.16 **Subordination of Liens**. In consideration of ten and no/100 U.S. Dollars (U.S.$10) incorporated into the Contract Price and as part of the consideration of receiving this Agreement and other valuable consideration received and acknowledged by Contractor,

Contractor hereby subordinates any mechanics' and materialmen's liens or other claims or encumbrances that may be brought by Contractor against any or all of the Work, the Site or the Facility to any liens granted in favor of Lender or any lender of Owner's Affiliates, whether such lien in favor of such Persons is created, attached or perfected prior to or after any such liens, claims or encumbrances, and shall require its Subcontractors and Sub-subcontractors to similarly subordinate their lien, claim and encumbrance rights. Contractor agrees to comply with reasonable requests of Owner for supporting documentation required by Lender or any lender of Owner's Affiliates, including any necessary lien subordination agreements, affidavits or other documents that may be required to demonstrate that Owner's property and the Site are free from liens, claims and encumbrances arising out of the furnishing of Work under this Agreement.

3.17 **Hazardous Materials**. Contractor shall not, nor shall it permit or allow any Subcontractor or Sub-subcontractor to, bring any Hazardous Materials on the Site and shall bear all responsibility and liability for such materials; *provided, however*, that Contractor may bring onto the Expansion Facility Site such Hazardous Materials as are necessary to perform the Work so long as the same is done in compliance with Applicable Law, Applicable Codes and Standards, and the requirements specified in Attachment J, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials; *provided further, however*, if Contractor needs to bring any Hazardous Materials onto the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1, through itself or its Affiliate, takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), or the Train 2 Expansion Site (after FLIQ2, through itself or its Affiliate, takes over site security of the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) for the performance of the Work, Contractor shall receive Owner's prior written approval (such approval not to be unreasonably withheld) before bringing such Hazardous Materials onto the Existing Facility Site, the Train 1 Expansion Site or the Train 2 Expansion Site, as applicable, and Contractor shall comply with Applicable Law, Applicable Codes and Standards, the requirements specified in Attachment J, and any safety or security rules or procedures for the Existing Facility Site, the Train 1 Expansion Facility or the Train 2 Expansion Facility regarding such Hazardous Materials, and Contractor shall remain responsible and strictly liable for all such Hazardous Materials. If Contractor or any Subcontractor or Sub-subcontractor encounter pre-existing Hazardous Materials at the Site, and Contractor or any Subcontractor or Sub-subcontractor knows or reasonably suspects that such material is Hazardous Material, Contractor and its Subcontractors and Sub-subcontractors shall immediately stop Work in the affected area and notify Owner. If under such circumstances Contractor or any of its Subcontractors or Sub-subcontractors fail to stop Work and notify Owner, Contractor shall be responsible and liable to Owner in accordance with Section 17.1C for all damages, costs, losses and expenses to the extent relating to such failure.

3.18 **Quality Assurance**.

A. No later than sixty (60) Days after the date Owner issues NTP, Contractor shall submit to Owner for its review and written approval, an Expansion Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's Quality Management System and Subcontractor source inspection plan as required by Attachment EE. No later than ninety (90) Days after the date Owner issues NTP, Contractor shall submit to Owner for its written approval, detailed construction

inspection and test plans and supporting construction procedures as required by Attachment EE. Prior to the commencement of the Work, detailed quality assurance and quality control procedures and plans applicable to the Work shall be issued to Owner in accordance with Attachment EE. Owner's review and approval of Contractor's quality plan, Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans shall in no way relieve Contractor of its responsibility for performing the Work in compliance with this Agreement. As part of the quality plan, the Subcontractor source inspection plan, detailed construction inspection and test plans and supporting construction procedures, and detailed quality assurance and quality control procedures and plans, Contractor agrees that it shall keep a daily log of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including the Lender independent engineer's) review a copy of all such inspections.

B. Before proceeding with the Work, Contractor shall furnish satisfactory evidence as to the kind, quality, and quantity of all Equipment. Without prior written approval by Owner which specifically waives the requirements of this Agreement, Contractor shall not use any Equipment other than as specified in this Agreement. If Contractor wishes to modify the requirements contained herein, then it shall make written application to Owner for Owner's approval, in Owner's sole discretion, prior to performing any such Work. Such application shall (i) identify the requirements being modified, (ii) certify that the quality of the proposed substitute is equal to or better than that currently specified, and (iii) certify that the substitute is suited to the same use and capable of performing the same function as that specified. If the preceding requirements are not followed, then any substitution shall constitute a Contractor Default. All Equipment shall be fabricated, applied, installed, connected, operated (during start-up and testing), cleaned and conditioned in accordance with the instructions of the applicable Subcontractor or Sub-subcontractor.

3.19 **Reports and Meetings**.

A. ***Reports***. Contractor shall provide Owner with an electronic copy of progress reports and such other information as reasonably requested by Owner, including the following:

1. minutes for all status and other Train 3 Expansion-related meetings within five (5) Business Days following such meeting;

2. safety or environmental incident reports within three (3) Business Days after the occurrence of any such incident (including "near miss" incidents where no individual was injured or property was damaged) relating to the Work, except for any safety or environmental incident involving a significant non-scheduled event such as LNG or natural gas releases, fires, explosions, mechanical failures, unusual over-pressurizations or major injuries which shall be provided to Owner within eight (8) hours of the occurrence of such incident; *provided, however,* notification shall be

provided to Owner immediately if any safety or environmental incident threatens public or employee safety, causes significant property damage, or interrupts the Work;

3. weekly (or such duration as otherwise agreed by Owner in writing) progress reports for the Work ("***Weekly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X, which shall be provided one (1) Day prior to the weekly progress meeting and shall cover all activities up to the end of the previous week; and

4. Monthly progress reports for the Work ("***Monthly Progress Reports***"), in a form acceptable to Owner and containing the information required in Attachment X. Contractor shall provide the Monthly Progress Report no later than ten (10) Days after the end of each Month, and the Monthly Progress Report shall cover activities up through the end of the previous Month. Contractor shall arrange for the electronic distribution of the Monthly Progress Report as Owner may reasonably request.

The Parties acknowledge that the Weekly Progress Reports and Monthly Progress Reports provided in accordance with this Section 3.19A shall include information for the Train 1 Expansion, Train 2 Expansion and Train 3 Expansion (other than certain information, including information related to cost and Change Orders, which shall be reported separately in accordance with Attachment X).

B. ***Meetings***.

1. A weekly progress meeting shall occur every week at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior week. The meetings shall be attended by the Owner Representative, the Contractor Representative, the Owner planning and scheduling representative, the Contractor planning and scheduling representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

2. A Monthly progress meeting shall be held by Contractor at the Site, or at an alternate site mutually agreeable to Owner and Contractor, to discuss the matters described in Attachment X for the prior Month and to review the Monthly Progress Report for that Month with Owner. The Monthly progress meeting shall be attended by the Owner Representative, the Contractor Representative and those Contractor employees and Subcontractors requested by Owner. The meetings may be attended by any authorized representative or agent of Lender or its independent engineer.

3. The Parties acknowledge that the weekly and monthly progress meetings held in accordance with this Section 3.19B shall include information related to the Train 1 Expansion, Train 2 Expansion, and Train 3

Expansion (other than certain information, including information related to cost and Change Orders, which shall be discussed separately in accordance with Attachment X).

3.20 **Payment**. Contractor shall timely make all payments required to be paid to Owner pursuant to the terms of this Agreement.

3.21 **Commercial Activities**. Neither Contractor 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 Site or any other lands owned or controlled by Owner; *provided, however*, lunch wagons and vending machines may be permitted upon prior written approval by Owner.

3.22 **Title to Materials Found**. As between Owner and Contractor, the title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in the excavation or other operations of Contractor, any Subcontractor or Sub-subcontractor and the right to use said materials or dispose of same is hereby expressly reserved by Owner. Contractor may, at the sole discretion of Owner, be permitted, without charge, to use in the Work any such materials that comply with the requirements of this Agreement.

3.23 **Survey Control Points and Layout**. Contractor shall establish all survey control points and layout the entire Work in accordance with the requirements of this Agreement, which shall be based on the survey control point established by Owner pursuant to Section 4.7. If Contractor or any of its Subcontractors, Sub-subcontractors or any of the representatives or employees of any of them move or destroy or render inaccurate the survey control points provided by Owner, such control points shall be replaced by Contractor at Contractor's own expense and Contractor shall be liable to Owner for all other damages, costs, losses and expenses arising out of such relocation or destruction.

3.24 **Cooperation with Others**.

A. Subject to the provisions of this Agreement, including Section 4.3, Contractor acknowledges that Owner, other contractors and other subcontractors or other Persons may be working at the Site during the performance of this Agreement and the Work or use of certain facilities may be interfered with as a result of such concurrent activities. As such, but subject to the provisions of this Agreement (including Section 4.3), Owner reserves the right to require Contractor 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, *provided that*, but subject to Sections 21.22 and 3.24B, if Owner's requirement to reschedule the Work interferes with Contractor's performance of the Work, Contractor shall be entitled to a Change Order to the extent allowed under Section 6.8. For the avoidance of doubt, Contractor acknowledges that T1/T2 EPC Contractor (and its subcontractors, sub-subcontractors and other Persons under the control of T1/T2 EPC Contractor) will be working at the Site during the performance of this Agreement and, if T1/T2 EPC Contractor (or its subcontractors, sub-subcontractors or other Persons under the control of T1/T2 EPC Contractor) interferes with the Work or Contractor's use of certain facilities as a result of such concurrent activities, Contractor

shall have no right to seek an adjustment to the Contract Price, the Train 3 Project Schedule or any other Changed Criteria for any interferences to the Work or access to the Site that arise out of or results from any interference by the T1/T2 EPC Contractor (or its subcontractors, sub-subcontractors or other Persons under the control of T1/T2 EPC Contractor).

B. Contractor understands that Owner may choose to expand the Expansion Facility (beyond the current Scope of Work and this Agreement) under one or more separate agreements, including adding additional natural gas pretreatment and liquefaction units. Such other agreements may or may not involve Contractor and may be performed during the course of the completion of the Work covered under this Agreement. In the event Contractor is not participating in such separate agreement(s), Contractor agrees to cooperate with Owner's other contractor(s) so as not to materially interfere with such other contractor, and Owner agrees to require its other contractor to cooperate with Contractor so as not to materially interfere with Contractor. In the event Contractor does participate in any or all such separate agreements, Contractor acknowledges that any such work performed by Contractor shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 3 Project Schedule or any other Changed Criteria.

3.25 **Scheduled and Unscheduled Activities Involving the Existing Facility, the Train 1 Expansion After its Substantial Completion Under the Train 1 EPC Agreement, and the Train 2 Expansion After its Substantial Completion Under the Train 2 EPC Agreement**.

A. ***Scheduled Activities***. Listed in Attachment CC is the Work (i) that is being performed on the Existing Facility Site, the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement) or the Train 2 Expansion Site (after substantial completion of the Train 2 Expansion under the Train 2 EPC Agreement) or (ii) which may interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement), the Train 2 Expansion (after it has achieved substantial completion under the Train 2 EPC Agreement) or the Existing Facility. No later than fourteen (14) Days prior to performing such Work, Contractor shall provide Owner with a written plan listing the Work to be performed and proposing in detail how Contractor intends that such Work will be performed to minimize, to the greatest extent reasonably possible, interference with the operation of the Train 1 Expansion, the Train 2 Expansion or the Existing Facility. The plan proposed by Contractor shall be the least disruptive to operations of the Train 1 Expansion, the Train 2 Expansion or Existing Facility, unless such plan is disproportionately expensive when compared to the impact on such operations. Prior to the execution of such Work, Owner and Contractor shall mutually agree upon a proposed plan for Contractor to execute such Work.

B. ***Unscheduled Activities***. It is the Parties' intent that, except for the activities listed in Attachment CC, the performance of the Work and Contractor's other obligations under this Agreement will not (i) be performed on the Existing Facility Site, the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under

the Train 1 EPC Agreement), or the Train 2 Expansion Site (after substantial completion of the Train 2 Expansion under the Train 2 EPC Agreement) or (ii) interfere with the operation of the Train 1 Expansion (after it has achieved substantial completion under the Train 1 EPC Agreement), the Train 2 Expansion (after it has achieved substantial completion under the Train 2 EPC Agreement) or the Existing Facility. During the performance of the Work, should a situation arise that requires additional Work to be performed on the Existing Facility Site, the Train 1 Expansion Site (after substantial completion of the Train 1 Expansion under the Train 1 EPC Agreement), the Train 2 Expansion Site (after substantial ompletion of the Train 2 Expansion under the Train 2 EPC Agreement) or which Contractor reasonably believes has the potential of interfering with the operation of the Train 1 Expansion, the Train 2 Expansion, or the Existing Facility, Contractor shall, except in an emergency endangering property or any Persons, give Owner written notice as soon as possible but no later than seven (7) Days' prior to the time that Contractor plans to perform such Work, detailing a plan that meets the requirements of Section 3.25A. Emergency actions are governed by Section 3.11. Prior to performing such Work, Owner and Contractor shall mutually agree on a proposed plan for Contractor to execute such Work. Notwithstanding Owner's agreement to the schedule and the plan for the performance of such Work, Owner may, in its sole discretion, subsequently prohibit the performance of such Work on such scheduled date, and Contractor shall work with Owner to develop a new plan and date for performing such Work in accordance with this Section 3.25B, and in such case Contractor shall be entitled to a Change Order to the extent permitted under Section 6.2A.1.

3.26 **Responsibility for Property**. Contractor shall carry out the Work so as not to interfere unnecessarily or improperly with, or damage, any access to, use or occupation of, public or private roads and footpaths or properties whether in the possession of Owner or of any other Person. Contractor shall liaise with, and ascertain the requirements of, all Governmental Instrumentalities in relation to vehicular access to and egress from the Site and shall comply with those requirements. Contractor shall so organize the Work as to minimize, and if required by any Governmental Instrumentalities having jurisdiction over such roads or footpaths, avoid vehicular travel during peak travel time on public roads, such as (but not limited to) school start and finish times. Contractor shall prevent damage to any highway or bridge by any traffic of Contractor or any Subcontractor or Sub-subcontractor and in particular, but without limitation, shall select routes, obtain all permits and permissions from relevant Governmental Instrumentalities, choose and use vehicles, and restrict and distribute loads so that any traffic interference which may arise from the moving of equipment and materials to and from the Site shall be limited as far as reasonably possible and so that no damage will be caused to highways and bridges. Contractor shall be deemed to have satisfied itself as to and shall be fully responsible for the routing for delivery of heavy or large loads to the Site or other locations where Work is performed. Contractor shall be fully responsible for all damages, losses, costs and expenses arising out of damage to such third-party property and shall promptly restore at its own cost and expense such property to the condition it was in before such damage. Contractor and its Subcontractors and Sub-subcontractors shall coordinate and conduct the performance of the Work so as to not interfere with or disrupt the use and peaceful enjoyment of any adjacent property to the Site. Where the nature of the Work is such as to require the use by Contractor of waterborne transport, Contractor shall avoid, or minimize to

the extent possible, any interference by Contractor with the access by and use of the common harbor, waterways and jetty by other Persons.

3.27 **Explosives**. Explosives shall be transported to the Expansion Facility Site only when required to perform the Work under this Agreement and with abundant, prior notice to and written approval of Owner. Contractor shall be responsible for properly purchasing, transporting, storing, safeguarding, handling and using explosives required to perform the Work under this Agreement. Contractor shall employ competent and qualified personnel for the use of explosives and shall assume full responsibility for all costs, losses, damages and expenses caused by the use of explosives. Residual surplus explosives shall be promptly removed from the Expansion Facility Site and properly disposed of by Contractor. Contractor shall strictly comply with Applicable Law and Applicable Codes and Standards in the handling of explosives pursuant to this Agreement (including the U.S. Patriot Act of 2001 and any and all rules and regulations promulgated by the U.S. Department of Homeland Security and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives), shall perform all obligations and obtain all Permits with respect to explosives, and shall develop and file and provide copies to Owner of all documentation regarding same.

3.28 **Nondiscrimination**. Contractor agrees that it shall conduct its activities without discrimination on account of race, creed, color, sex, national origin, religion, age or disability and shall comply with Applicable Law relating thereto, including Executive Order 11246, as amended. Upon the request of Owner, Contractor shall provide Owner with copies of all plans or programs that Contractor uses to satisfy the requirements of this Section 3.28.

3.29 **Used or Salvaged Materials**. If, after Substantial Completion and prior to Final Completion, Contractor has any Equipment (including commissioning spare parts) that it intended for use with the Train 3 Expansion but did not incorporate therein, Owner has the option of either taking such Equipment at no cost to Owner or require that Contractor haul off such Equipment at Contractor's own cost and expense. Notwithstanding the foregoing, all Capital Spare Parts and operating spare parts itemized on the Owner-approved spare parts list prepared pursuant to Section 3.4 shall be the property of FLNG Liquefaction 3, LLC and shall only be utilized by Contractor upon Owner's prior written agreement in accordance with such Section 3.4.

3.30 **Supervision of Owner's Operation Personnel**. Until Substantial Completion (but subject to Owner rights under Section 11.8), Owner's (or any Owner's Affiliates') operating and maintenance personnel providing support to the Train 3 Expansion shall be under the control of and supervised by Contractor; *provided, however*, notwithstanding the foregoing, all such operating and maintenance personnel shall remain employees or agents of Owner (or its Affiliates) and shall not be considered employees of Contractor for any reason. To the extent not set forth in Attachment V, Contractor shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, prepare for Owner's review a proposed plan regarding the utilization of Owner's (or its Affiliates') operation and maintenance personnel and Contractor's personnel during pre-commissioning, commissioning, start-up and operations of the Train 3 Expansion and the conduct of Performance Tests and any other tests for the Train 3 Expansion. Each such plan shall be prepared (i) so as to minimize, to the extent reasonably possible under the circumstances (considering the need to keep the

Existing Facility operable, the Train 1 Expansion operable (after substantial completion under the Train 1 EPC Agreement), and the Train 2 Expansion operable (after substantial completion under the Train 2 EPC Agreement)), any impact on the operation of the Existing Facility, the Train 1 Expansion, and the Train 2 Expansion and (ii) to take into account (a) the Existing Facility, the Train 1 Expansion, and the Train 2 Expansion operating and maintenance procedures, (b) the number of operating and maintenance personnel available to Owner for participation in pre-commissioning, commissioning, start-up and Performance Testing, (c) safety issues for the Train 3 Expansion and (d) the type of activities to be performed. Such plan shall be mutually agreed-upon by the Parties no later than forty-five (45) Days after Owner's receipt of Contractor's proposed plan. Without in any way limiting Contractor's obligation to provide forces and labor during commissioning and Performance Testing, Contractor agrees that if any activity requires direct supervision by Contractor, such activity shall be performed by Contractor or a Subcontractor or Sub-subcontractor. Nothing in this Agreement, including this Section 3.30 or Section 3.2H, shall be interpreted to create a master-servant or principal-agent relationship between Contractor and any of Owner's (or Owner's Affiliates') operation or maintenance personnel.

3.31 **Use of Owner Equipment or Facilities**. Where Contractor requests from Owner and Owner agrees in writing to make available to Contractor certain construction equipment (*e.g.*, cranes, mules, tools, etc.) belonging to Owner for the performance of the Work, the following shall apply:

A. Owner-provided construction equipment shall be charged to Contractor at rental rates to be agreed between them;

B. Owner shall furnish a copy of the equipment maintenance and inspection record, and these records shall be maintained by Contractor during the rental period;

C. Contractor shall assure itself of the condition of such construction equipment and assume all risks and responsibilities during its use, it being understood by the Parties that any use of Owner's construction equipment is strictly on an "AS IS" basis and OWNER HEREBY DISCLAIMS, AND CONTRACTOR HEREBY WAIVES, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH CONSTRUCTION EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, CONDITION, OR FITNESS FOR ANY PARTICULAR PURPOSES OR USE;

D. To the fullest extent permitted by Applicable Law, Contractor shall, notwithstanding anything to the contrary in Article 17, release, defend, indemnify and hold harmless Owner Indemnified Parties from and against any and all claims, demands and liabilities directly or indirectly arising from the use of such construction equipment;

E. Owner and Contractor shall jointly inspect such Owner equipment or facilities before their use and upon their return. Any damage or destruction of such construction equipment, other than normal wear and tear, shall be repaired or replaced at Contractor's expense; and

F. If such construction equipment is furnished with an operator, the services of such operator shall be performed under the complete direction and control of Contractor and such operator shall be considered Contractor's employee for all purposes other than the payment of wages, workers' compensation insurance and other employment benefits.

3.32 **Compliance with Real Property Interests**. Contractor shall, in the performance of the Work, comply, and cause all Subcontractors and Sub-subcontractors performing Work at the Site to comply, with any easement, lease, right-of-way or other property interests that affect or govern the Site or any other real property used for the purposes of completing the Work.

ARTICLE 4
OWNER'S RESPONSIBILITIES

Owner shall comply with the following provisions in a timely manner:

4.1 **Payment**. Owner shall timely pay the Contract Price in accordance with the provisions of Article 7 hereof.

4.2 **Permits**. Owner shall be responsible for obtaining the Permits listed in Attachment Q. To the extent Owner has not obtained any Permits prior to the Effective Date, Owner shall obtain such Permits in accordance with the schedule contained in Attachment Q and Owner shall provide Contractor with copies of such Permits within ten (10) Business Days after obtaining them. Owner shall provide information, assistance and documentation to Contractor as reasonably requested in connection with the Permits to be obtained by Contractor under this Agreement.

4.3 **Access to the Site**. Owner shall provide Contractor with reasonable access on the Train 3 Expansion Site. Subject to Section 3.24, such access shall be sufficient to permit Contractor to progress with Work (including as necessary to perform Work under an LNTP) on a continuous basis without substantial interruption or interference. In addition, Owner shall provide Contractor with reasonable access on the Existing Facility Site, the Train 1 Expansion Site (after FLIQ1 (or its Affiliate) takes over site security of the Train 1 Expansion Site pursuant to the Train 1 EPC Agreement), and the Train 2 Expansion Site (after FLIQ2 (or its Affiliate) takes over site security of the Train 2 Expansion Site pursuant to the Train 2 EPC Agreement) necessary for the performance of the Work; *provided, however*, except as allowed pursuant to Section 3.25, such access shall not interfere with the operation of the Existing Facility, the Train 1 Expansion or the Train 2 Expansion, nor shall it interfere with the performance of work by Owner's other contractors or subcontractors or other Persons. Contractor shall have the obligation to coordinate the performance of the Work with Owner and with any of Owner's other contractors or subcontractors as required in Sections 3.2P and 3.24.

4.4 **Operation Personnel**. Owner shall retain (through itself or an Affiliate) operating and maintenance personnel sufficient to pre-commission, commission, start-up and test the Train 3 Expansion under the supervision of Contractor during commissioning as set forth in Attachment V. Such personnel performing activities for the Train 3 Expansion shall be

under the control of and supervised by Contractor in accordance with Section 3.30. For clarity, however, Owner (or its Affiliate) shall provide and pay for all of Owner's (or such Affiliate's) operating and maintenance personnel, including all wages, fringes, taxes and insurance.

4.5 **Texas Sales and Use Taxes**.

A. ***Sales and Use Taxes Exemption Certificates on Exempt Equipment***.

1. For Texas state and local sales and use tax purposes, this Agreement shall be considered to be a separated contract for the construction of new non-residential real property as defined under Applicable Law, including 34 Tex. Admin Code Rule § 3.291(a)(13). Contractor shall ensure that all Subcontracts are separated for Texas state and local sales and use tax purposes.

2. Listed in Attachment FF are those items of Equipment (including materials) to be permanently installed in the Train 3 Project in which Owner intends to claim a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes under Applicable Law, including the governing law specified in Section 21.9 ("***Tax Exempt Equipment***"), which such list may be adjusted by Owner at its sole discretion by Change Order. In addition, with respect to any additional items of Equipment added by Change Order which are subject to a manufacturing, pollution control or other applicable exemption to the payment of Texas state and applicable local sales and use taxes, Owner will update the list of Tax Exempt Equipment in Attachment FF.

3. Prior to issuance of NTP or any LNTP directing Contractor to procure any Equipment, and to the extent not already included in Attachment GG, Owner shall issue a Texas direct pay exemption certificate and Texas Sales and Use Tax Exemption Certificate(s) to Contractor, and Contractor shall not invoice Owner for Texas state and applicable local sales and use tax on the separately stated Tax Exempt Equipment Price and separately stated Taxable Equipment Price. Pursuant to direct pay permit status, Owner shall pay Texas state and applicable local sales and use tax directly to the State of Texas and the applicable local Governmental Instrumentality on the Taxable Equipment Price. Contractor shall provide the documents and information necessary to allow the Owner to properly determine this tax liability. Contractor shall maintain for Owner's review copies of Texas state and applicable local sales and use tax exemption certificates and other similar documentation necessary to support all Texas state and applicable local sales and use tax exemptions that may be available to Owner, Contractor or any Subcontractor or Sub-subcontractor in connection with the Work.

4. Contractor shall reasonably cooperate with Owner to minimize any and all Texas state and applicable local sales and use taxes relating to the Train 3 Project. If Contractor or any Subcontractor or Sub-subcontractor

incurs any Texas state and applicable local sales and use taxes on any items of Tax Exempt Equipment or Taxable Equipment listed in Attachment FF for which Owner provided Contractor with a valid applicable Texas state and applicable local sales and use tax exemption certificate or direct pay exemption certificate, Contractor shall be responsible for the payment of such Texas state and applicable local sales and use taxes without reimbursement by Owner and CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER INDEMNIFIED PARTIES FROM AND AGAINST ANY CLAIMS BY A GOVERNMENTAL INSTRUMENTALITY FOR SUCH TEXAS STATE AND APPLICABLE LOCAL SALES AND USE TAXES.

B. ***Additional Contractor Texas Sales and Use Tax Responsibilities***. Contractor shall be considered a retailer of all Equipment incorporated into the Work. Contractor shall issue a valid Texas sales and use tax resale exemption certificate for Taxable Equipment and Tax Exempt Equipment to its Subcontractors, and Contractor shall not pay, consistent with such exemption certificate, any sales and use tax on Taxable Equipment and Tax Exempt Equipment to Subcontractors. Notwithstanding the foregoing, Contractor shall remain responsible for the payment of all Taxes on account of the Work, including Texas state and applicable local sales and use taxes on any purchase, lease or rental of construction equipment and on any other purchases related to Work other than the Tax Exempt Equipment and Taxable Equipment.

4.6 **Hazardous Materials**. Owner shall remediate, remove, transport or dispose of any Hazardous Materials discovered or released at the Site (including Hazardous Materials used or generated by operation of the Existing Facility), including any Hazardous Materials brought on the Site by third parties, but excluding any Hazardous Materials that are the responsibility of Contractor pursuant to Section 3.17. Contractor shall provide reasonable assistance to Owner in its Hazardous Material remediation efforts. OWNER SHALL DEFEND, INDEMNIFY AND HOLD CONTRACTOR INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES) INCURRED BY CONTRACTOR CAUSED BY ANY HAZARDOUS MATERIALS FOR WHICH OWNER IS RESPONSIBLE UNDER THIS SECTION 4.6.

4.7 **Legal Description and Survey**. Contractor acknowledges that Owner, through itself or its Affiliates, has provided to Contractor for Contractor's information a legal description of the Site and a survey of the Site showing the boundaries of the Site and one survey control point.

4.8 **Owner Provided Items**. Owner shall provide those items listed in this Section 4.8 and in Attachment Z within the times listed therein, subject to the requirements and limitations set forth in this Section 4.8.

A. ***Natural Gas Feed to Achieve Substantial Completion***. As between Owner and Contractor under this Agreement, Owner shall procure and make natural gas feed available for commissioning, start-up, cool down and testing of the Train 3 Expansion (including natural gas or LNG utilized in the initial cool-down of the Train 3 Expansion). The natural gas feed to the Train 3 Expansion will meet the pressure,

temperature and quality requirements set forth in Schedule A-2 in accordance with this Section 4.8A and the delivery requirements as set forth by Section 4.8A(i) below. Such natural gas feed shall be made available by (or on behalf of) Owner at the inlet of the natural gas pretreatment facilities to be constructed by Contractor as part of the Work. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all natural gas feed in order for Contractor to achieve Substantial Completion. Contractor shall use GECP to minimize the amount of natural gas flaring or venting that is necessary to achieve Substantial Completion, and the start-up, commissioning and testing procedures agreed upon by the Parties shall be developed and administered in a manner to minimize natural gas flaring and venting. Further, Owner and Contractor will use reasonable efforts to allow for recirculation of natural gas and LNG between (i) the Existing Facility and the Train 3 Expansion, (ii) the Train 1 Expansion and the Train 3 Expansion after substantial completion of the Train 1 Expansion, and (ii) the Train 2 Expansion and the Train 3 Expansion after substantial completion of the Train 2 Expansion, to aid Contractor in the start-up, cool down, commissioning and testing of the Train 3 Expansion to assist in minimizing the amount of natural gas flaring or venting necessary to achieve Substantial Completion.

(i) In order for Owner to schedule the procurement of natural gas feed to be provided by Owner in accordance with Section 4.8A, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing its first delivery of natural gas feed for the Train 3 Expansion. Within such written notice, Contractor shall provide Owner with a range of days and a range of flows for each Day which Contractor, using GECP, believes it will need for delivery of natural gas feed in order to achieve Substantial Completion. No later than the twentieth (20^{th}) day of the Month prior to the Month in which natural gas feed will first be delivered, Contractor will provide a second written notice to Owner with an updated forecast of the days and amounts of natural gas feed deliveries for such Day necessary to achieve Substantial Completion of the Train 3 Expansion, which such Days and amounts shall be within the ranges provided by Contractor in its initial notice. If Contractor provides the above notices in accordance with this Section 4.8A(i), Owner will procure such natural gas feed in accordance therewith, subject to the limitations set forth in Section 4.8A; if Owner fails to provide natural gas feed as required herein, and Contractor provided Owner with the notices required by this Section 4.8A(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to provide the natural gas feed). Owner shall use reasonable efforts to procure natural gas feed deliveries in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure natural gas feed deliveries which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 3 Project Schedule or any other Changed Criteria.

B. ***Electrical Power Requirements to Achieve Substantial Completion***. Contractor shall procure and pay for all electricity necessary for the design, engineering,

procurement and construction of the Train 3 Expansion until RFSU of the Train 3 Expansion. Thereafter, as between Owner and Contractor under this Agreement, Owner shall procure and make electricity available for the Train 3 Expansion meeting the requirements set forth in Schedule A-2 in accordance with this Section 4.8B for the commissioning, start-up and testing (including Performance Testing) of the Train 3 Expansion. Such electricity feed shall be made available by (or on behalf of) Owner at the interface between CenterPoint's high voltage transmission lines and the Facility's high voltage transmission lines. As between Owner and Contractor under this Agreement, Owner shall procure, at its sole cost, all electricity necessary from RFSU for achievement of Substantial Completion of the Train 3 Expansion. Contractor shall use GECP to use electricity in the most efficient manner practicable between RFSU and Substantial Completion of the Train 3 Expansion and minimize the consumption of electricity that is not utilized in producing incremental volumes of LNG meeting the specifications of this Agreement. The start-up, commissioning and testing procedures to be agreed upon by the Parties shall be developed and administered in a manner to ensure efficient use of electricity. For purposes of clarity, after Substantial Completion of the Train 3 Expansion and as between Owner and Contractor under this Agreement, Owner shall provide and pay for all electricity consumed by the Train 3 Expansion (whether consumed in the production of incremental on-spec LNG or otherwise).

(i) In order for Owner to schedule the procurement of electricity to be provided by Owner in accordance with Section 4.8B, Contractor shall provide Owner with written notice at least ninety (90) Days prior to the scheduled date for achievement of RFSU of the Train 3 Expansion (as shown on the most recent Monthly Updated CPM Schedule). Within such written notice, Contractor shall provide Owner with a daily power load profile which Contractor, using GECP, anticipates for its electricity consumption between RFSU and Substantial Completion. At least forty-five (45) Days prior to the scheduled date for achievement of RFSU of the Train 3 Expansion (as shown on the most recent Monthly Updated CPM Schedule), Contractor shall provide Owner with a second written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the first forty-five (45) Day period after RFSU is achieved for the Train 3 Expansion. Every forty-five (45) Days thereafter, Contractor shall provide Owner with written notice which estimates, using GECP, Contractor's anticipated hourly power load profile for the next forty-five (45) Day period (or until Substantial Completion is achieved for the Train 3 Expansion). For purposes of clarity, and by way of example and explanation only, if Contractor's second written notice (provided 45 Days prior to the scheduled achievement of RFSU) was provided on March 1st (for a scheduled RFSU achievement on April 14th), such notice should provide an estimate for power usage from April 14th until May 28th. Then, on April 14th, Contractor shall provide Owner with written notice estimating the power usage from May 29th until July 12th. Contractor shall provide similar notices every 45 Days thereafter until it has estimated its power usage up to the scheduled date of Substantial Completion for the Train 3 Expansion. If Contractor provides the above notices in accordance with this Section 4.8B(i), Owner will procure electricity in accordance therewith; if Owner fails to provide electricity as required herein, and Contractor provided Owner with

the notices required by this Section 4.8B(i), Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to provide the electricity). In the event Contractor's planned activities between RFSU and Substantial Completion deviate from those assumed for purposes of estimating the power loads necessary to be supplied by Owner (such that the estimated power loads necessary for Contractor's activities change significantly in either amount, timing, or both), Contractor shall, as soon as reasonably possible, provide Owner with written notice of such deviations and provide new estimates for the power loads that have been previously estimated by Contractor.

C. ***Propane and Ethylene***. As between Owner and Contractor under this Agreement, Owner shall timely procure and pay for sufficient quantities of propane and ethylene (including any makeup propane and ethylene) for commissioning, startup and testing of the Train 3 Expansion. The propane and ethylene shall meet the specifications set forth in Attachment A. In order for Owner to schedule the supply of the quantities of propane and ethylene, Contractor shall provide Owner with written notice at least sixty (60) Days prior to Contractor needing delivery of the initial quantities of propane and ethylene for the Train 3 Expansion. Within such written notice, Contractor shall provide Owner with the quantities (itemized among the initial quantities and any makeup quantities) for both ethylene and propane which, using GECP, Contractor believes it will need in order to achieve Substantial Completion of the Train 3 Expansion. No later than ten (10) Days prior to Contractor's desired delivery date for the initial quantities of ethylene and propane, Contractor will provide a second written notice to Owner confirming or updating the quantities and delivery dates for the supply of ethylene and propane. If Contractor provides the above notices in accordance with this Section 4.8C, Owner will procure such ethylene and propane in accordance therewith; if Owner fails to provide propane or ethylene as required herein, and Contractor provided Owner with the notices required by this Section 4.8C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to provide the propane or ethylene). Owner shall use reasonable efforts to procure ethylene and propane in amounts in addition to, or deviating from, the information in the second notice provided by Contractor; *provided, however*, any failure by Owner to procure supplies which differ from the deliveries specified by Contractor in its second notice set forth above shall not entitle Contractor to any adjustment in the Contract Price, Train 3 Project Schedule or any other Changed Criteria.

D. ***LNG Evacuation Requirements***. Owner shall evacuate LNG produced by the Train 3 Expansion from the LNG storage tanks in amounts necessary for Contractor to achieve Substantial Completion of the Train 3 Project (subject to Section 11.4A). In addition (but subject to Section 11.4A), Owner shall ensure that adequate storage remains available (in accordance with this Section 4.8D) for Contractor to achieve Substantial Completion notwithstanding Train 1 Expansion operations and Train 2 Expansion operations and use of the LNG storage tanks. Owner shall evacuate LNG from the LNG storage tanks in accordance with the notice procedure set forth in

Section 11.1C. If Owner fails to provide LNG evacuation at the times and in the amounts required by Section 11.1C, Contractor shall be entitled to a Change Order to adjust the Contract Price and Train 3 Project Schedule to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing Owner's inability to evacuate LNG from the LNG storage tanks). To the extent the Train 3 LNG Storage Tank is unavailable to Contractor for storage of LNG produced from the Train 3 Expansion during commissioning, Owner shall provide adequate space in the Existing Facility's LNG storage tanks for LNG produced from the Train 3 Expansion. Owner shall evacuate 1,250,000 cubic meters of LNG from the LNG storage tanks (either the Existing Facility's LNG storage tanks or the Train 3 LNG Storage Tank) (to the extent such amount is necessary for Contractor to achieve Substantial Completion) for the commissioning, tuning and testing of the Train 3 Expansion ("***LNG Evacuation Requirement***"). If Contractor requires additional amounts of LNG evacuated from the LNG storage tanks in order to achieve Substantial Completion, Owner shall evacuate such LNG in accordance with the requirements of Section 11.1C; *provided, however*, for each cubic meter of LNG evacuated by Owner above the LNG Evacuation Requirement, Contractor shall be liable to Owner for any actual, incremental costs to Owner (net costs after accounting for any revenues received by Owner as a result of such evacuation) not to exceed Twenty-Four U.S. Dollars (U.S.$24.00) per cubic meter of LNG evacuated above the LNG Evacuation Requirement; *provided further, however*, that Contractor's aggregate liability to Owner for the foregoing incremental costs shall not exceed Twenty Million U.S. Dollars (U.S.$20,000,000) (and any such liabilities incurred by Contractor shall accrue against Contractor's aggregate liability under Section 20.1). While adhering to the LNG evacuation schedule required by Section 11.1C, Owner will use commercially reasonable efforts to avoid or minimize any net costs it incurs in provding LNG evacuation above the LNG Evacuation Requirement.

E. ***LNG Tanker Loading Requirements***. As between Owner and Contractor under this Agreement, Owner shall provide Contractor with LNG Tanker loading opportunities in order for Contractor to conduct the Ship Loading Performance Test. When performing the Ship Loading Performance Test, Owner shall have, or cause to have, the LNG Tanker cold and ready to accept LNG transfer with no constraints on loading rates at or below the Ship Loading Rate MAC. Contractor shall have the right to determine which LNG Tanker loading opportunities provided by Owner will be utilized for the Ship Loading Performance Test. Subject to Section 11.4A, Contractor will be provided with enough LNG Tanker loading opportunities for Contractor to successfully achieve the Ship Loading Performance Test. Notwithstanding the foregoing, however, if (i) Contractor has been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test, (ii) Contractor's only barrier to achieving Substantial Completion of the Train 3 Expansion is passing the Ship Loading Performance Test for the Train 3 LNG Storage Tank and (iii) Contractor is otherwise ready to perform such Ship Loading Performance Test, then Contractor's liability for Substantial Completion Delay Liquidated Damages shall not exceed thirty (30) Days of Substantial Completion Delay Liquidated Damages in the event Contractor is unable to conduct a Ship Loading Performance Test due to Owner's inability to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. If the foregoing circumstances arise, once

Contractor is provided with its next LNG Tanker loading opportunity (after Contractor has been provided with the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test), if the Ship Loading Performance Test is unsuccessful, Contractor's liability for Substantial Completion Delay Liquidated Damages shall re-commence but shall not exceed thirty (30) Days of additional Substantial Completion Delay Liquidated Damages if Owner is unable to timely provide (or cause to be provided) another LNG Tanker loading opportunity for Contractor. Subject to Section 11.4A, the foregoing 30-Day limitation on Substantial Completion Delay Liquidated Damages and re-commencement of such Delay Liquidated Damages after an unsuccessful Ship Loading Performance Test shall continue until the Ship Loading Performance Test is achieved. To the extent necessary for successful achievement of the Ship Loading Performance Test, Owner will use commercially reasonable efforts to provide Contractor with additional LNG Tanker loading opportunities as soon as possible after the initial ten (10) loadings have been provided.

1. In the event that (i) Contractor has not been provided with ten (10) LNG Tanker loading opportunities (including the LNG Tanker loading for RLFC) for the Ship Loading Performance Test, (ii) Contractor is ready to perform the Ship Loading Performance Test, and (iii) such Ship Loading Performance Test is Contractor's only barrier to achieving Substantial Completion for the Train 3 Expansion, Contractor (once the Guaranteed Substantial Completion Date has arrived or if it has passed) shall be entitled to an extension to the Train 3 Project Schedule and adjustment to the Contract Price to the extent allowed under Section 6.7 or 6.8 (depending upon the circumstances causing the delay in providing LNG Tanker loading opportunities to Contractor) until the earlier of (1) a successful Ship Loading Performance Test is achieved or (ii) Owner provides (or causes to be provided) the minimum ten (10) LNG Tanker loading opportunities for the Ship Loading Performance Test.

ARTICLE 5
COMMENCEMENT OF WORK, PROJECT SCHEDULE, AND SCHEDULING OBLIGATIONS

5.1 **Commencement of Work**. Upon Contractor's receipt from Owner of an LNTP or NTP, Contractor shall immediately commence with the performance of the Work specified in such LNTP or NTP.

5.2 **Limited Notice to Proceed/Notice to Proceed**.

A. ***Limited Notices to Proceed***.

1. On the Effective Date, Owner shall issue to Contractor LNTP No. 1 in the form of Schedule H-3 ("***LNTP No. 1***"), which shall authorize Contractor to perform the Work specified in such LNTP No. 1, subject to the payment provisions and maximum payments set forth in LNTP No. 1. All Work performed under LNTP No. 1 shall be performed pursuant to the terms

and conditions of this Agreement and all payments for the LNTP Work under LNTP No. 1 shall be credited against the Contract Price according to the Payment Milestones for LNTP No. 1 in Schedule C-1.

2. At any time prior to the date of issuance of NTP, Owner may issue additional LNTPs in the form set forth in Schedule H-1, which shall authorize Contractor to commence performance of a specified portion of the Work. Each such LNTP shall specify the maximum total cost of such specified Work, and Contractor shall be paid for such specified Work pursuant to the terms and conditions of this Agreement, with all such payments credited against the Contract Price (as it may be adjusted by Change Order) and the first progress payment(s) to become due hereunder. Each LNTP shall be performed on a fixed-price basis, in accordance with the Payment Milestones defined in Attachment C, Schedule C-1 and the agreed upon payment terms, unless otherwise mutually agreed in writing by the Parties.

B. ***Notice to Proceed***. Unless otherwise specifically set forth in an LNTP, Contractor shall not commence performance of the Work until Owner issues the NTP authorizing the same pursuant to the terms and conditions of this Agreement. Upon Contractor's receipt from Owner of the NTP, Contractor shall immediately commence with the performance of the Work. The NTP shall be issued in the form attached hereto as Schedule H-2. If Owner fails to issue NTP on or before June 30, 2015, then Contractor shall have the rights set forth in Section 5.2C.

C. ***Contract Price and Train 3 Project Schedule Validity and Delay in Issuance of NTP***. Subject to Section 5.2C.1 below, in order for the Contract Price and Train 3 Project Schedule to remain valid under this Agreement, Owner shall issue NTP on or before June 30, 2015. If Owner fails to issue NTP by June 30, 2015, then Contractor shall be entitled to an adjustment to the Contract Price and the Train 3 Project Schedule (including the Guaranteed Substantial Completion Date) if and to the extent the Parties' utilization of an open book estimate process substantially similar to that performed under the FEED Agreement shows, through a reevaluation of the Contract Price and Train 3 Project Schedule (including Subcontracts, labor costs, per diems, equipment and bulk material costs and delivery schedules), that issuance of NTP under this Agreement after the required date set forth herein (as compared to on or before such dates) has resulted in increased costs chargeable to Contractor or an increased time for the performance of the Work (including 19% on such increased costs for Contractor's G&A and profit). For the avoidance of doubt, any adjustment to the Contract Price or Train 3 Project Schedule shall not be based upon a change in the scope of engineering work or the quantity of materials or equipment, or the amount of field labor or field in-directs, unless the staffing plan or Train 3 Project Schedule is materially affected by late issuance of NTP described in this Section. Contractor shall use commercially reasonable efforts and GECP to mitigate the increase to the Contract Price or delay to the Train 3 Project Schedule.

1. If necessary, Owner shall have the right to submit a written notice to Contractor notifying Contractor that Owner may not issue NTP within the time periods required by this Agreement and requiring Contractor to prepare an updated proposal for the Contract Price and Train 3 Project Schedule (the "***Updated Contract Price and Train 3 Project Schedule Proposal***") to be valid for Owner's acceptance for a period of ninety (90) Days from its issuance to Owner (or such other validity period that may be agreed upon by the Parties in writing). Such Updated Contract Price and Train 3 Project Schedule Proposal shall be performed in accordance with Section 5.2C above. In Owner's written notice to Contractor for the Updated Contract Price and Train 3 Project Schedule Proposal, Owner may request that Contractor's proposal include plans to accelerate the Work in order to maintain, to the extent practicable, the original Train 3 Project Schedule. Upon receipt of the written notice from Owner, Contractor shall promptly commence the update to the Contract Price and Train 3 Project Schedule and shall submit the Updated Contract Price and Train 3 Project Schedule Proposal as promptly as practicable, but in any event no more than sixty (60) Days after receipt of the foregoing written notice from Owner. Once received by Owner, the Updated Contract Price and Train 3 Project Schedule Proposal shall be subject to negotiation between Owner and Contractor, and if there are agreed adjustments, such adjustments shall be valid for Owner's acceptance within the validity period for the Updated Contract Price and Train 3 Project Schedule Proposal (or such other validity period that may be agreed upon in writing by the Parties). If the Parties agree on an updated Contract Price and Train 3 Project Schedule, the adjustments to the Contract Price and Train 3 Project Schedule shall be adjusted by Change Order signed by Owner and Contractor.

2. The Updated Contract Price and Train 3 Project Schedule Proposal shall be based upon a mutually agreed Work scope to continue under one or more LNTPs under this Agreement until issuance of NTP hereunder by Owner. If the Parties have not agreed upon an updated Contract Price and Train 3 Project Schedule, and Owner has not issued NTP under this Agreement within the validity period of the applicable proposal, Section 5.2C.1 shall apply in the event Owner requests subsequent updated proposals for the Contract Price and Train 3 Project Schedule.

5.3 **Train 3 Project Schedule**. Contractor shall perform the Work in accordance with the Train 3 Project Schedule set forth in this Section 5.3 and in Attachment E.

A. ***Guaranteed Substantial Completion Date***. Contractor shall achieve Substantial Completion of the Train 3 Expansion no later than August 3, 2019 ("***Guaranteed Substantial Completion Date***"). The Guaranteed Substantial Completion Date shall only be adjusted by Change Order as provided under this Agreement.

B. ***Required Final Completion Date***. Contractor shall achieve Final Completion no later than ninety (90) Days after Substantial Completion ("***Required***

Final Completion Date"). The Required Final Completion Date shall only be adjusted by Change Order as provided under this Agreement.

5.4 **CPM Schedule**.

A. ***Baseline CPM Schedule Submissions***. Within sixty (60) Days after the Owner's issuance of the NTP, Contractor shall prepare and submit to Owner for its review and written approval a baseline critical path method schedule consisting of a resource/work-hour loaded CPM Schedule using Primavera Project Planner version 6.x or higher detailed to a discipline, craft and subsystem level based upon the Work Breakdown Structure (upon Owner's approval, the "***Baseline CPM Schedule***"). The Baseline CPM Schedule shall, at a minimum, be detailed as a resource loaded schedule with project unit area, and discipline (as described in the Work Breakdown Structure) for activities for the Train 3 Project (including engineering, procurement, construction, pre-commissioning, commissioning, testing and startup), shall be fully integrated, shall be consistent with the Train 3 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date, and shall show an uninterrupted critical path from NTP through RFSU, RLFC, Substantial Completion and Final Completion. In addition, the Baseline CPM Schedule shall be capable of being integrated with the baseline critical path method schedule developed under the Train 1 EPC Agreement and Train 2 EPC Agreement in order to produce a master baseline critical path method schedule for the combined Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion. With respect to each activity in the Baseline CPM Schedule, the Baseline CPM Schedule shall show the activity number, activity description, early start and early finish dates, late start and late finish dates, duration, total float value and projected work-hours as well as identify the Work interfaces for other parties' activities (including Owner, Owner's other contractors, and utility companies), which shall be sorted by the Work Breakdown Structure and scheduled start or another format agreed upon by Owner. The Baseline CPM Schedule shall represent Contractor's judgment, using GECP, as to how it shall complete the Work in compliance with the Train 3 Project Schedule, including the Guaranteed Substantial Completion Date and the Required Final Completion Date. The Baseline CPM Schedule shall be submitted in electronic format, created by Primavera Project Planner software back-up utility and including all Primavera Project Planner network data. Contractor shall submit with the Baseline CPM Schedule the following: (a) Primavera based listing of "predecessor/successor" in tabular format showing activities in the Baseline CPM Schedule, their predecessor activities and relationships and their successor activities and relationships; (b) progress "S" curve, showing the baseline plan, actual and forecast progress by Month for total progress of the Work, which shall be based on the Baseline CPM Schedule; (c) engineering discipline and overall engineering and construction manpower histograms showing forecast manpower required by Month, for scheduled completion of the Work; (d) Drawing log showing the Drawing number, title, planned, actual and forecast issue for construction ("***IFC***") release dates by discipline and reporting period; and (e) procurement log showing the Equipment Subcontract order number, description, forecast and actual bid release dates, Equipment Subcontract order release dates, required-at-Site dates and delivery dates.

B. ***Monthly Updated CPM Schedules.*** After approval by Owner of the Baseline CPM Schedule described in Section 5.4A, Contractor shall manage and update (no less frequently than once every month), using GECP, a critical path method schedule for the Work with Primavera Project Planner (each such updated schedule being a "***Monthly Updated CPM Schedule***") showing the actual, up-to-date progress of the Work and forecasted Work activities. The Monthly Updated CPM Schedule shall not modify the Baseline CPM Schedule or the Train 3 Project Schedule (including the Guaranteed Substantial Completion Date or the Required Final Completion Date), nor shall it change any dates that relate to Owner's obligations or Work interfaces under the Agreement. Each Monthly Updated CPM Schedule shall meet the requirements of Section 5.4 and Attachment X, and in addition shall (i) at a minimum be prepared with the same level of detail as the Baseline CPM Schedule, (ii) show the Baseline CPM Schedule, (iii) for each activity completed, show the actual start and finish dates for each such completed activity, (iv) for each activity started but not yet completed, show the actual start date for each such activity and forecasted completion date for each such activity, (v) for each activity not yet started, show the forecasted start and completion date for each such activity, (vi) show the forecasted date of achievement of RFSU, RLFC, Substantial Completion and Final Completion, and (vii) update the Monthly Updated CPM Schedule with all other information shown in the Baseline CPM Schedule, reflecting the Work as actually performed or as forecasted. In addition, the Monthly Updated CPM Schedule shall be capable of being integrated with the monthly updated critical path method schedule developed and updated under the Train 1 EPC Agreement and Train 2 EPC Agreement in order to produce a master monthly updated critical path method schedule for the combined Train 1 Expansion, Train 2 Expansion, and Train 3 Expansion. The Monthly Updated CPM Schedule shall be submitted to Owner in the same detail and form as required by the Baseline CPM Schedule. If Contractor changes the schedule logic, any durations or resource-loading with respect to any activity in its Monthly Updated CPM Schedule such that it deviates from the Baseline CPM Schedule, Contractor shall provide Owner with a written explanation of each such change along with the Monthly Updated CPM Schedule (but the Baseline CPM Schedule shall not be changed). Contractor shall promptly correct any errors or inconsistencies in the updates to the Monthly Updated CPM Schedule identified to Contractor by Owner and shall re-submit a corrected Monthly Updated CPM Schedule to Owner for review.

C. ***Review, Comments and Approvals of CPM Schedules***.

1. In addition to the approval of the Baseline CPM Schedule described in Section 5.4A, Owner shall review and approve any proposed adjustments to the Baseline CPM Schedule. The Baseline CPM Schedule shall not be adjusted except by Change Order.

2. No more than once every three (3) Months, Owner shall have the right to review, analyze and comment on the Monthly Updated CPM Schedule. As a component of the process for Owner's review of the Monthly Updated CPM Schedule pursuant to this Section 5.4C.2, Owner and Contractor shall conduct a schedule workshop with the Monthly Updated

CPM Schedule and conduct a detailed schedule analysis on the CPM Schedule with third party software applications (selected and provided by Owner, at its cost) capable of performing forensic, metric and logic analysis on the CPM Schedule (such as Acumen Fuse™ or P6 Project Integrity Checker). A mutually agreed upon set of parameters and thresholds shall be set forth in writing and used by Contractor and Owner for this review. Based upon the schedule analysis (including the use of the third party software applications) and the agreed upon schedule parameters and thresholds, schedule corrections and/or optimizations shall be generated. All such correction and/or optimizations shall be mutually resolved by Contractor and Owner.

3. Any review, comment or approval by Owner of the Baseline CPM Schedule, any adjustments to the Baseline CPM Schedule or any Monthly Updated CPM Schedule shall not relieve Contractor of any obligations for the performance of the Work, nor shall it be construed to establish the reasonableness of the Baseline CPM Schedule or any Monthly Updated CPM Schedule. In addition, any review, comment or approval by Owner of any Monthly Updated CPM Schedule is for purposes of verifying Contractor's development of Monthly Updated CPM Schedules meeting the requirements of Section 5.4 and shall not, under any circumstances, change the Train 3 Project Schedule (including the Guaranteed Substantial Completion Date), alter the timing of any of Owner's obligations or Work interfaces identified in the Baseline CPM Schedule or otherwise modify any other aspect of the Baseline CPM Schedule. Owner shall be entitled to reasonably rely upon the Baseline CPM Schedule and any Monthly Updated CPM Schedules, including reliance that Contractor has developed a comprehensive, reasonable and accurate schedule to plan, organize, direct, coordinate, perform, execute and complete each portion of the Work within the times set forth in the Train 3 Project Schedule.

D. ***30 Day Look-ahead Schedule***. No later than the tenth (10th) Day of each Month, Contractor shall submit to Owner a 30 Day look-ahead schedule ("***30 Day Look-ahead Schedule***"), which shall be based on the Monthly Updated CPM Schedule showing in detail the activities to be performed during the next thirty (30) Days, including target, forecast and actual dates for each activity, shall be detailed into project unit area and discipline, and shall meet all other requirements of updates to the Monthly Updated CPM Schedule as described in Section 5.4B.

E. ***Form of Submittals; Access to Native Files***. Submittals of the Baseline CPM Schedule (as may be adjusted from time to time via Change Order) and the Monthly Updated CPM Schedules by Contractor to Owner shall be in both native electronic and paper format. Native electronic submissions of the Baseline CPM Schedule and the Monthly Updated CPM Schedules shall be provided via password-protected document control system access and may be downloaded from the secure system by Owner personnel having password authorization. Four (4) hard copies of each submittal shall be provided to Owner, and one (1) electronic copy shall be provided

to Owner. Owner acknowledges that the native electronic files of the Baseline CPM Schedule and the Monthly Updated CPM Schedules include Contractor's Confidential Information of an extremely sensitive nature that is governed by the terms of this Agreement's confidentiality provisions. In addition to its confidentiality obligations hereunder, Owner shall regulate the distribution of, and access to, the native electronic files provided by Contractor on a need-to-know basis (including among its own employees and its Affiliates and Affiliates' employees) and shall only distribute such native electronic files to the extent necessary for the exercise of Owner's rights and obligations under this Agreement or as required by its Lenders. Such native electronic files shall be protected in the same manner, and under the same policies and procedures, that Owner protects Owner's Confidential Information, which such policies and procedures shall be of a level at least equal to industry standards for protection of like information.

F. ***Failure to Submit CPM Schedule***. In the event Contractor fails to provide the schedules in accordance with Sections 5.4 and 5.6, Owner shall have the right to withhold payment of Invoices due until compliance with Sections 5.4 and 5.6 is achieved.

5.5 **Recovery and Recovery Schedule**. If, at any time during the prosecution of the Work, (i) should the Monthly Updated CPM Schedule or Monthly Progress Report show that any activity on the critical path of the applicable CPM Schedule is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date (as such Guaranteed Substantial Completion Date or Required Final Completion Date may be adjusted by Change Order executed by the Parties), or should Contractor fail to provide a Monthly Updated CPM Schedule in compliance with the requirements of this Agreement and Owner reasonably determines that any activity on the critical path is delayed such that Substantial Completion or Final Completion will occur thirty (30) or more Days after the Guaranteed Substantial Completion Date or the Required Final Completion Date, or should Contractor fail to achieve any Schedule Milestone within thirty (30) Days after the date specified for such Schedule Milestone (as such Schedule Milestones may be adjusted by Change Order executed by the Parties) and (ii) Contractor or any of its Subcontractors or Sub-subcontractors are in Owner's reasonable judgment responsible for such delay, Owner may, in addition to any other remedies that it may have under this Agreement, require that Contractor prepare a schedule to explain and display how it intends to regain compliance with the Baseline CPM Schedule during the immediate subsequent pay period or other period selected by Owner ("***Recovery Schedule***"). Contractor shall do the following after written notification by Owner of the requirement for a Recovery Schedule:

A. Within ten (10) Business Days after such written notification, Contractor shall prepare the Recovery Schedule and submit it to Owner for its review. Contractor shall prepare the Recovery Schedule even if Contractor disputes Owner's determination of the need for a Recovery Schedule. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline CPM Schedule. The Recovery Schedule shall be prepared in accordance with GECP and to a similar level of detail as the Baseline CPM Schedule, and shall have (unless otherwise

specified in writing by Owner) a maximum duration of sixty (60) Days unless otherwise mutually agreed.

B. Within ten (10) Business Days after Contractor submits a Recovery Schedule, Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for review by Owner within three (3) Days after the conference. The revised Recovery Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of Subcontractors and Sub-subcontractors) for the duration specified in Section 5.5A, to regain compliance with the Baseline CPM Schedule.

C. Contractor shall perform the Work in accordance with the Recovery Schedule.

D. Five (5) Days prior to the expiration of the Recovery Schedule, Contractor shall meet with Owner at the Site to determine the effectiveness of the Recovery Schedule and to determine whether Contractor has regained compliance with the Baseline CPM Schedule. At the direction of Owner, one of the following shall happen:

1. If, in the opinion of Owner, Contractor is still behind schedule, Contractor shall be required to prepare another Recovery Schedule pursuant to Section 5.5A above, to take effect during the immediate subsequent pay period or other period selected in writing by Owner. Contractor shall prepare such Recovery Schedule even if Contractor disputes Owner's opinion.

2. If, in the opinion of Owner, Contractor has sufficiently regained compliance with the Baseline CPM Schedule, Contractor shall return to the use of the Baseline CPM Schedule.

E. In preparing and executing the Recovery Schedule, Contractor shall take all steps necessary to regain compliance with the Baseline CPM Schedule, including establishing additional shifts, hiring additional manpower, paying or authorizing overtime, providing additional equipment, and resequencing activities.

F. The cost of preparing the Recovery Schedule, and performing in accordance therewith, shall be for Contractor's account.

G. Owner's requirement, review and approval of the Recovery Schedule, or its decision not to request a Recovery Schedule, shall not relieve Contractor of any obligations for the performance of the Work, change the Guaranteed Substantial Completion Date or the Required Final Completion Date, or be construed to establish the reasonableness of the Recovery Schedule.

H. Failure of Contractor to comply with its obligation to provide a Recovery Schedule in accordance with this Section 5.5, after Owner provides Contractor with fifteen (15) Days prior written notice, shall be a Default.

5.6 **Acceleration and Acceleration Schedule**. Even if the Work is otherwise in compliance with the Baseline CPM Schedule, Owner may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, providing additional construction equipment or expediting Equipment; *provided, however*, (i) in no event shall Owner unilaterally order acceleration of the Work requiring Contractor to achieve Substantial Completion or Final Completion prior to the respective, original Guaranteed Substantial Completion Date or Required Final Completion Date and (ii) unless the Parties mutually agree by Change Order to adjustments to the Train 3 Project Schedule as a result of the acceleration, Contractor's obligation with respect to an acceleration directive from Owner shall be limited to using commercially reasonable efforts to accelerate the Train 3 Project Schedule. In the event of this directive, Owner's sole liability shall be to pay to Contractor any documented costs clearly and solely attributable to such acceleration. Such costs may include any incremental overhead or administrative costs, shift differential, premium, margin on incremental costs, increased costs resulting from any inefficiencies realized as a result of such acceleration, costs to expedite, or overtime payments to workers or field supervisors and other employees of Contractor dedicated to the Work (including additional indirect staff) on a full-time basis actually incurred over and above Contractor's normal rates, and overtime charges for equipment. Any adjustment to the Contract Price or any other Changed Criteria that the Parties agree in writing will be changed by such acceleration for Owner's acceleration of the Work shall be implemented by Change Order. If Owner directs Contractor in writing to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by Owner, and shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Baseline CPM Schedule (the "***Acceleration Schedule***"). With respect to the Acceleration Schedule, Contractor shall do the following:

A. No later than the tenth (10^{th}) Business Day after such directive or such longer time as may be mutually agreed in writing by the Parties, Contractor shall prepare the Acceleration Schedule and submit it to Owner for its review. The Acceleration Schedule shall represent Contractor's best judgment as to how it shall satisfy Owner's acceleration directive. The Acceleration Schedule shall be prepared using GECP and to a similar level of detail as the Baseline CPM Schedule.

B. On the tenth (10^{th}) Business Day after such directive (or such longer time as may be mutually agreed in writing by the Parties), Contractor shall participate in a conference with Owner, and with any other Person, including Subcontractors and Sub-subcontractors, whom Owner designates to participate, to review and evaluate the Acceleration Schedule. Any revisions to the Acceleration Schedule necessary as a result of this review shall be resubmitted for review by Owner no later than the tenth (10th) Day after such meeting or such other date as may be agreed in writing by the Parties. The revised Acceleration Schedule shall then be the schedule which Contractor shall use in planning, organizing, directing, coordinating, performing, and executing that portion

of the Work that is affected by such acceleration, with the Baseline CPM Schedule governing the performance of all other Work.

C. Owner's review and approval of the Acceleration Schedule shall not constitute an independent evaluation or determination by Owner of the workability, feasibility, or reasonableness of that schedule.

ARTICLE 6
CHANGES; FORCE MAJEURE; AND OWNER-CAUSED DELAY

6.1 **Change Orders Requested by Owner**. Owner shall be entitled to a Change Order upon request in accordance with this Section 6.1.

A. If Owner submits to Contractor in writing a duly signed proposed Change Order, Contractor must respond to Owner within five (5) Business Days with a written statement setting forth the effect, if any, which such proposed Change Order would have on the Contract Price, the Train 3 Project Schedule, the Design Basis, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees, or any other obligation or potential liability of Contractor hereunder (collectively or individually, the "***Changed Criteria***"). With Contractor's response, Contractor shall provide a written statement to Owner that sets forth the effects, if any, that the proposed Change Order would have on the contract price, project schedule or other obligation. If it is not possible for Contractor to provide all of the information required under this Section 6.1A to be submitted with such written statement within such five (5) Business Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such five (5) Business Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's receipt of such proposed Change Order from Owner. The written statement shall be in the form of Schedule D-3, and shall include all information required by Section 6.5B.

1. In the event that Owner requests Contractor to prepare a response to a proposed Change Order pursuant to Section 6.1A, and Contractor believes that the incremental cost to be incurred by Contractor in order to prepare such response will exceed Eight Thousand U.S. Dollars (U.S.$8,000), then Contractor shall give Owner written notice within five (5) Business Days after receipt of Owner's request, and prior to incurring costs with respect to such response, identifying such threshold may be exceeded and providing Owner with an estimate of the incremental cost to prepare such response to the proposed Change Order. Owner shall then have the right to request Contractor to proceed with the response or not. If Owner requests Contractor to proceed and Owner ultimately decides not to enter into a Change Order based upon this response, then Owner's payment responsibility shall be for Contractor's incremental costs above the foregoing threshold amount incurred in providing the response to the proposed Change Order (but not to exceed

Contractor's estimated cost for the Change Order response unless prior approval is given by Owner in writing).

B. If the Parties agree on such Changed Criteria of the proposed Change Order (or modify such Change Order so that the Parties agree on such Changed Criteria), the Parties shall execute such Change Order, which shall be in the form of Schedule D-1 and such Change Order shall become binding on the Parties, as part of this Agreement.

C. If the Parties cannot agree on such Changed Criteria of the proposed Change Order within ten (10) Business Days of Contractor's receipt of Owner's proposed Change Order, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately without the requirement of a written statement by Contractor as required under Section 6.1A, Owner may, by issuance of a unilateral Change Order in the form attached hereto as Schedule D-2, require Contractor to commence and perform the changed Work specified in the unilateral Change Order on a time and materials basis using the rates as set forth in Schedule D-4, or if not specified therein, at rates not to exceed then-current market rates with the effect of such unilateral Change Order on the Changed Criteria (or if the Parties agree on the effect of such unilateral Change Order for some but not all of the Changed Criteria, the impact of each of the components of the Changed Criteria on which the Parties disagree) to be determined as soon as possible. If the Parties cannot agree on the effect of such unilateral Change Order by the date of Final Completion, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall perform the Work as specified in such unilateral Change Order and Owner shall continue to pay Contractor in accordance with the terms of this Agreement and any previously agreed Change Orders. When Owner and Contractor agree on the effect of such unilateral Change Order on all of the Changed Criteria, such agreement shall be recorded by execution by the Parties of a Change Order in the form attached hereto as Schedule D-1, which shall supersede the unilateral Change Order previously issued and relating to such changed Work. Contractor shall commence the performance of the changed Work or other obligations required in such unilateral Change Order within three (3) Business Days of receipt of such unilateral Change Order (or within such other time specified in such unilateral Change Order) and shall diligently perform the changed Work or other obligations required in such unilateral Change Order.

6.2 **Change Orders Requested by Contractor**.

A. Contractor shall only have the right to request a Change Order in the event of any of the following occurrences:

1. Acts or omissions of Owner, or of any Owner Indemnified Parties or any other Person acting on behalf of or under the control of Owner, that constitute a breach of this Agreement by Owner and materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement and, with respect to

delays (as that term is defined Section 6.9) caused by any Owner Indemnified Parties or any Person acting on behalf or under the control of Owner, compensation and a time extension to the Train 3 Project Schedule to the extent allowed under Section 6.8;

2. Force Majeure to the extent allowed under Section 6.7A;

3. Acceleration of the Work ordered by Owner pursuant to Section 5.6, *provided that* a Change Order has been issued;

4. To the extent Contractor has complied with Section 3.17, discovery of pre-existing Hazardous Materials at the Site that adversely affect Contractor's cost (which costs shall be adequately documented and supported by Contractor) of the performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.9) caused by such discovery of pre-existing Hazardous Materials, compensation and a time extension to the Train 3 Project Schedule to the extent allowed under Section 6.8;

5. To the extent expressly permitted under Section 2.5B.2, 2.5E, 3.3C.5, 3.24A, 4.8A(i), 4.8B(i), 4.8C, 4.8D, 4.8E.1, 5.2C, 7.10B, 7.11, 8.2A.3, 8.2A.4, 11.1D.2, 12.2A, or 16.6, or Section 14.2 or 14.22 of Schedule A-1, Section 6.1.5 of Schedule A-2, Section 5.1.1 of Schedule A-3, or Section 1.P or 2.D of Attachment O;

6. Purchase of operating spare parts in accordance with Section 3.4C;

7. Suspension in Work ordered by Owner pursuant to Section 16.3 or a suspension in Work allowed to Contractor pursuant to Section 16.4; or,

8. Changes in Law that materially and adversely affect Contractor's actual cost (which costs shall be adequately documented and supported by Contractor) of performance of the Work or ability to perform any material requirement under this Agreement, and with respect to any delays (as that term is defined in Section 6.9) caused by such Changes in Law, compensation and a time extension to the Train 3 Project Schedule to the extent allowed under Section 6.8.

B. Should Contractor desire to request a Change Order under this Section 6.2, Contractor shall, pursuant to Section 6.5, notify Owner in writing and issue to Owner, at Contractor's expense, a request for a proposed Change Order in the form attached hereto as Schedule D-3, a detailed explanation of the proposed change and Contractor's reasons for proposing the change, all documentation necessary to verify the effects of the change on the Changed Criteria, and all other information required by Section 6.5. Any adjustments to the Contract Price shall be requested on a fixed price separated basis according to Article 7 (or such other pricing basis as the Parties may mutually agree in writing) and shall be derived from the rates set forth in Schedule D-4 to the extent

applicable or, if not stated therein, derived from rates not to exceed then-current market rates.

C. If Owner agrees that a Change Order is necessary and agrees with Contractor's statement regarding the effect of the proposed Change Order on the Changed Criteria, then Owner shall issue such Change Order, which shall be in the form of Schedule D-1, and such Change Order shall become binding on the Parties as part of this Agreement upon execution thereof by the Parties.

D. If the Parties agree that Contractor is entitled to a Change Order but cannot agree on the effect of the proposed Change Order on the Changed Criteria within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order and all other required information, or if Owner desires that the proposed changed Work set forth in the proposed Change Order commence immediately, the rights, obligations and procedures set forth in Section 6.1C are applicable.

E. If the Parties cannot agree upon whether Contractor is entitled to a Change Order within ten (10) Business Days after Owner's receipt of Contractor's written notice and proposed Change Order, then the dispute shall be resolved as provided in Article 18. Pending resolution of the dispute, Contractor shall continue to perform the Work required under this Agreement, and Owner shall continue to pay Contractor in accordance with the terms of this Agreement, as modified by any previously agreed Change Orders, and with the terms of any unilateral Change Orders.

6.3 **Contract Price Adjustment; Contractor Documentation**. If a Change Order is executed on a time and materials basis pursuant to Section 6.1C or 6.2D, then interim payments shall be made to Contractor in accordance with the terms of Section 6.1C for such unilateral Change Order Work; *provided that* the Contract Price shall not be adjusted unless and until a mutual Change Order is executed by the Parties that supersedes the unilateral Change Order (and such mutual Change Order adjusts the Contract Price) or the dispute underlying the unilateral Change Order is resolved in accordance with Article 18 requiring an adjustment to the Contract Price. Contractor shall use reasonable efforts to minimize such costs (consistent with the requirements of this Agreement) and shall provide Owner with options for reducing such costs whenever possible. The foregoing costs shall be supported by reasonable documentation, including daily work logs, time sheets, invoices and receipts. With respect to all unilateral and mutual Change Orders, as well as any requests for Change Orders by Contractor pursuant to Section 6.2, Contractor shall maintain and present all applicable Books and Records and other documentation related to such actual or requested Change Orders in a manner that would allow such documentation (including cost and schedule-related information) to be segregated into documentation relating to Train 3 Specific Work and Work on Train 3 Specific Common System.

6.4 **Change Orders Act as Accord and Satisfaction**. Change Orders agreed pursuant to Section 6.1B or 6.2C by the Parties, and unilateral Change Orders entered into pursuant to Section 6.1C or 6.2D on a time and materials basis and which the Parties have subsequently agreed upon the effect of such unilateral Change Order and executed a

superseding and mutually agreed upon Change Order as provided in Section 6.1B or 6.2C, shall constitute a full and final settlement and accord and satisfaction of all effects of the change as described in the Change Order upon the Changed Criteria and shall be deemed to compensate Contractor fully for all direct and indirect impacts of such change. Accordingly, unless otherwise expressly and conspicuously stated in such Change Order, Contractor expressly waives and releases any and all right to make a claim or demand or to take any action or proceeding against Owner for any other consequences arising out of, relating to, or resulting from such change reflected in such Change Order, whether the consequences result directly or indirectly from such change reflected in such Change Order, including any claim or demand for damages due to delay, disruption, hindrance, impact, interference, inefficiencies or extra work arising out of, resulting from, or related to, the change reflected in that Change Order (including any claims or demands that any Change Order or number of Change Orders, individually or in the aggregate, have impacted the unchanged Work); *provided, however*, Contractor may only expressly reserve its right under a Change Order to make such claim or demand or take any such action or proceeding against Owner if Contractor is not able in good faith to determine, using GECP, all of the effects of the change at the time of executing such Change Order and, *provided further*, subject to Section 6.4A, that if Contractor so expressly reserves its rights in accordance with this Section 6.4, Contractor shall make such claim or demand or take any such action or proceeding against Owner within a reasonable time but in no event later than three (3) months after the date of such Change Order (unless the Parties mutually agree to extend such time period in writing), and if Contractor fails to bring such claim or demand within such three (3) month period (or such longer time period as the Parties mutually agree in writing), Contractor is deemed to have forever waived and released such claim or demand.

A. The foregoing three (3) month time period set forth in Section 6.4 for Contractor bringing forth to Owner a previously reserved claim or demand shall not apply for Change Orders requested under Sections 6.2A.2, 6.2A.3, 6.2A.8, 8.2A.3, or 8.2A.4 and, in such circumstances, Contractor shall bring such previously reserved claim or demand as soon as reasonably possible using GECP but no later than prior to Substantial Completion.

6.5 **Timing Requirements for Notifications and Change Order Requests by Contractor**. Should Contractor desire to seek an adjustment to the Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date, the Required Final Completion Date, the Payment Milestone Schedule, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement for any circumstance that Contractor has reason to believe may give rise to a right to request the issuance of a Change Order, Contractor shall, with respect to each such circumstance:

A. notify Owner in writing of the existence of such circumstance within twenty (20) Days after the date that Contractor's Key Personnel knew or reasonably should have known of the first occurrence or beginning of such circumstance, *provided that* if such circumstance is an emergency, oral notice shall be given immediately, followed with written notice within three (3) Days after the date such oral notice is provided. In such notice (written or oral), Contractor shall state in detail all known and

presumed facts upon which its claim is based, including the character, duration and extent of such circumstance, the date Contractor first knew of such circumstance, any activities impacted by such circumstance, the good faith estimate of cost and time consequences of such circumstance (including showing the impact of such circumstance, if any, on the critical path of the applicable CPM Schedule), any other details or information that are expressly required under this Agreement and any information and documents relevant to such claim or circumstance. Contractor shall only be required to comply with the notice requirements of this Section 6.5A once for continuing circumstances, provided the notice expressly states that the circumstance is continuing and includes Contractor's best estimate of the impact on any Changed Criteria by such circumstance; and

B. submit to Owner a request for a proposed Change Order as soon as reasonably practicable after giving Owner written notice but in no event later than seven (7) Days after the completion of each such circumstance, together with a written statement (i) detailing why Contractor believes that a Change Order should be issued, plus all documentation reasonably requested by or necessary for Owner to determine the factors necessitating the possibility of a Change Order and all other information and details expressly required under this Agreement (including the information required by Schedule D-4, detailed estimates and cost records, daily time sheets and a graphic demonstration using the applicable CPM Schedule, showing Contractor's entitlement to a time extension to the Train 3 Project Schedule pursuant to the terms of this Agreement, which shall be provided in hard copy and in native electronic format in accordance with Section 5.4E); and (ii) setting forth the effect, if any, which such proposed Change Order would have for the Work on any of the Changed Criteria. If it is not possible for Contractor to provide all of the information required under this Section 6.5B to be submitted with such proposed Change Order within such seven (7) Day period, Contractor shall provide Owner with as much information as possible as well as a written explanation of the reason that additional time is required. With respect to any information not provided within such seven (7) Day period, Contractor shall exercise reasonable diligence to provide such information as soon as possible, but in no event later than thirty (30) Days following Contractor's submission of such proposed Change Order.

The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the notices and proposed Change Orders as required under this Section 6.5, and agree that such requirements are an express condition precedent necessary to any right for an adjustment in Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, Payment Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other modification to any other obligation of Contractor under this Agreement.

6.6 **Adjustment Only Through Change Order**. No change in the requirements of this Agreement, whether an addition to, deletion from, suspension of or modification to this Agreement, including any Work, shall be the basis for an adjustment for any change in the Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date or Required Final Completion Date, Payment Milestone Schedule, any Work, any of the

Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor or right of Owner under this Agreement unless and until such addition, deletion, suspension or modification has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article 6. Contractor shall not perform any change in the Work unless and until such change is authorized pursuant to this Article 6, and should Contractor perform or claim to perform any changes in the Work prior to authorization by Change Order, all such costs and expenses incurred by Contractor shall be for Contractor's account. No course of conduct or dealings between the Parties, nor express or implied acceptance of additions, deletions, suspensions or modifications to this Agreement, including any Work, and no claim that Owner has been unjustly enriched by any such addition, deletion, suspension or modification to this Agreement, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim for an adjustment in the Contract Price, the Train 3 Project Schedule, the Guaranteed Substantial Completion Date or the Required Final Completion Date, the Payment Milestone Schedule, any Work, any of the Minimum Acceptance Criteria or Performance Guarantees or any other obligations of Contractor under this Agreement.

6.7 **Force Majeure**.

A. ***Contractor Relief***.

1. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an extension to the Guaranteed Substantial Completion Date or the Required Final Completion Date if such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule and causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, but only if Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10. Subject to Section 6.7A.2, the Parties agree that Contractor's sole remedy for such delay shall be an adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date, as applicable, pursuant to a Change Order. Any adjustment to the Guaranteed Substantial Completion Date or the Required Final Completion Date shall be recorded in a Change Order.

2. If the commencement, prosecution or completion of the Work is delayed by Force Majeure, then Contractor shall be entitled to an adjustment to the Contract Price as provided in (a) or (b) below if Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10 and meets the requirements of either (a) or (b) below. Any adjustment to the Contract Price shall be recorded in a Change Order.

(a) With respect to any one or more hurricanes or named tropical storms in (or forecasted by the National Weather Service to make

landfall in) the Texas Gulf Coast region that constitute a Force Majeure event, Contractor shall be entitled to an adjustment to the Contract Price for reasonable incremental costs (including for field indirect personnel and field overhead) necessarily incurred by Contractor (i) to prepare the Work on the Site to safely weather such hurricane or named tropical storm, (ii) during demobilization of Contractor's personnel and applicable construction equipment from the Site to a safe off-Site location prior to the Force Majeure and (iii) during remobilization of Contractor's personnel and applicable construction equipment from the off-Site location to the Site after the Force Majeure; *provided that* Contractor shall bear at its own expense the first Three Hundred Seventy-Five Thousand U.S. Dollars (US$375,000) of such costs with respect to any one hurricane or named tropical storm, *provided further that* the aggregate amount which Contractor shall be required to bear with respect to the above costs is One Million U.S. Dollars (US$1,000,000).

(b) In the event that any one or more Qualified Force Majeure Events, in the aggregate, cause Contractor to achieve Substantial Completion more than thirty (30) Days after the Guaranteed Substantial Completion Date, Contractor shall be entitled to an adjustment to the Contract Price for reasonable costs necessarily incurred by Contractor for further delay occurring after the expiration of such thirty (30) Day aggregate period as a result of Qualified Force Majeure Events. A "***Qualified Force Majeure Event***" is a single Force Majeure event that otherwise meets the requirements of Section 6.7A.1 and causes Contractor to achieve the Substantial Completion five (5) or more Days after the Guaranteed Substantial Completion Date.

B. ***Owner Relief***. Subject to Section 6.7C, Owner's obligations under this Agreement shall be suspended to the extent that performance of such obligations is delayed by Force Majeure.

C. ***Payment Obligations***. No obligation of a Party to pay moneys under or pursuant to this Agreement shall be excused by reason of Force Majeure.

6.8 **Delay Caused by Owner, Changes in Scope of Work, Subsurface Conditions, Hazardous Materials and Changes in Law**. Should (i) Owner, or any Owner Indemnified Party acting on behalf or under the control of Owner or any other Person acting on behalf or under the control of Owner, subject to Section 21.22, delay the commencement, prosecution or completion of the Work, and to the extent such delay is not attributable to Contractor or its Subcontractors or Sub-subcontractors but is caused by Owner's breach of an express obligation of Owner under this Agreement or such delay is caused by Owner's ordering a change in the Scope of the Work (provided that a Change Order has been issued in accordance with Section 6.1), or (ii) the commencement, prosecution or completion of the Work be delayed as a result of (1) subsurface conditions for which Contractor is entitled to adjustments to the Contract Price and/or Train 3 Project Schedule, as applicable, under Section 2.5B.2, (2) Contractor's discovery of pre-existing Hazardous Materials on the Site for which Contractor is entitled to

relief under Section 6.2A.4, (3) Changes in Law for which Contractor is entitled to relief under Section 6.2A.8, (4) Owner's interference with the Work for which Contractor is entitled to relief under Section 3.24A, (5) Owner's failure to provide natural gas feed in the amounts and at the times required by Section 4.8A(i) (unless due to Force Majeure), (6) Owner's failure to provide electricity in the amounts and at the times required by Section 4.8B(i) (unless due to Force Majeure), (7) Owner's failure to provide propane or ethylene in the amounts and at the times required by Section 4.8C (unless due to Force Majeure), (8) Owner's failure to provide LNG evacuation in accordance with Section 4.8D and 11.1C (unless due to Force Majeure) for which Contrtactor is entitled to relief under Section 4.8D, (9) Owner's failure to provide LNG Tanker loading opportunities as further set forth in Section 4.8E.1 (unless due to Force Majeure) for which Contractor is entitled to relief under such Section 4.8E.1, (10) Owner's failure to deliver the RLFC LNG Tanker for which Contractor is entitled to relief under Section 11.1D.2 or (11) a suspension of the Work for which Contractor is entitled to relief under Section 6.2A.7, then Contractor shall, with respect to any of the above, be entitled to request a Change Order for an adjustment in the Contract Price and an extension to the Train 3 Project Schedule if (w) such delay affects the performance of any Work that is on the critical path of the applicable CPM Schedule, (x) such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date, (y) Contractor is unable to proceed with other portions of the Work so as not to cause a delay in the Guaranteed Substantial Completion Date or the Required Final Completion Date and (z) Contractor complies with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements of Section 6.10. Any adjustment to the Contract Price shall be for reasonable, additional costs incurred by Contractor for such delay meeting the requirements of this Section 6.8, and any adjustments to the Contract Price or the Guaranteed Substantial Completion Date or Required Final Completion Date shall be recorded in a Change Order. The Parties agree that if they execute a Change Order with respect to any change in the Scope of Work described in this Section 6.8, any delay arising out of such change in the Scope of Work and meeting the requirements of this Section 6.8 shall be included in the Change Order incorporating such change in the Scope of Work.

6.9 **Delay**.

A. For the purposes of Sections 6.2A.1, 6.7 and 6.8, the term "delay" shall include hindrances, disruptions or obstructions, or any other similar term in the industry and the resulting impact from such hindrances, disruptions or obstructions, including inefficiency, impact, ripple or lost production.

B. For the avoidance of doubt, the Parties recognize and agree that for the purposes of Section 6.7 and 6.8, a Work activity not on the critical path can become on the critical path, and if a delay causes a Work activity off the critical path to become a critical path activity, Contractor is entitled to an extension to the Train 3 Project Schedule for those days of delay after which the non-critical path activity became a critical path activity, *provided that* such delay satisfies the other requirements under applicable Sections 6.7 and 6.8, including that such delay causes Contractor to complete the Work beyond the Guaranteed Substantial Completion Date or the Required Final Completion Date.

6.10 **Contractor Obligation to Mitigate Delay**. With respect to Sections 6.7 and 6.8, in no event shall Contractor be entitled to any adjustment to the Train 3 Project Schedule or adjustment to the Contract Price for that portion of delay to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate such delay.

6.11 **Separated Contract Price Adjustments in Change Orders**. Any adjustment by Change Order to the Contract Price which is made on a fixed price separated basis shall be separated pursuant to 34 Tex. Admin. Code Rule § 3.291(a)(13) to specify the applicable adjustments to the Tax Exempt Equipment Price, Taxable Equipment Price and Labor and Skills Price in accordance with Article 7. In addition, any such adjustment by Change Order to the Contract Price shall identify which component of the Contract Price that such adjustment is attributable to by adjusting the Train 3 Common System Contract Price Component and Train 3 Specific Contract Price Component, as applicable.

6.12 **Owner's Change Order Right to Undertake Full Scope of Expansion Facility Dock under this Agreement**.

A. ***Elimination of Expansion Facility Dock under the Train 1 EPC Agreement and the Train 2 EPC Agreement***. If, pursuant to Section 16.14A under the Train 1 EPC Agreement or the Train 2 EPC Agreement, the scope of work under the applicable Train 1 EPC Agreement or the Train 2 EPC Agreement is reduced by FLIQ1 or FLIQ2, respectively, such that T1/T2 EPC Contractor will not otherwise complete the Expansion Facility Dock, Contractor shall, within five (5) Business Days of such scope reduction, notify Owner in writing of such scope reduction. Upon Owner's receipt of such written notice from Contractor, Owner shall have one hundred and twenty (120) Days (or such other period of time as the Parties may agree upon in writing) to inform Contractor in writing whether Owner desires to assume the payment obligations which are necessary to have the Expansion Facility Dock Work continue to be performed by Contractor; *provided that*, during such time period prior to Owner's response, Owner acknowledges that the T1/T2 EPC Contractor may have the right to suspend the Expansion Facility Dock Work to the extent allowed under the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively. In the event Owner elects to assume such payment obligations for the Expansion Facility Dock Work under this Agreement, Owner shall notify Contractor of such election in writing and submit with (or promptly after) such notice a request for a Change Order in accordance with Section 6.1. Thereafter, Owner and Contractor shall proceed in accordance with Section 6.1 with a view towards executing a mutual Change Order that establishes an adjustment to the Train 3 Specific Common Systems Contract Price Component reflective of the scope of the Expansion Facility Dock Work that Owner desires Contractor to complete under this Agreement; *provided that*, to mitigate or avoid additional costs associated with a suspension in the Expansion Facility Dock Work), Owner may issue a unilateral Change Order to Contractor so that the Expansion Facility Dock Work may continue without any suspension or so that any then-suspended Expansion Facility Dock Work resumes. For purposes of clarity, the Parties acknowledge that if Owner elects to adopt the scope of the Expansion Facility Dock Work, then the adjustment to the Train 3 Specific Common Systems Contract Price Component under the Change Order shall not exceed FLIQ1 and FLIQ2's unpaid share of T1/T2 EPC Contractor's compensation associated with the

Expansion Facility Dock Work (as such compensation is tracked by the Expansion Facility Dock Price (as defined, identified and updated, from time to time, under the Train 1 EPC Agreement and the Train 2 EPC Agreement)).

B. ***Elimination of Train 3 LNG Storage Tank***. The Parties acknowledge that, in the event Owner desires to have the Expansion Facility Dock (that was being compensated under the Train 1 EPC Agreement and the Train 2 EPC Agreement) executed under this Agreement pursuant to Section 6.12A, Owner, in its sole discretion, may wish to remove the Train 3 LNG Storage Tank from the scope of Work (as part of its right to modify the scope of Work pursuant to Section 6.12A). In the event Owner so desires to remove the Train 3 LNG Storage Tank from the Scope of Work, the Parties acknowledge that the reduction in the Contract Price for the removal of such scope will be determined by subtracting (i) the reasonable value of the Work performed for the Train 3 LNG Storage Tank from (ii) the Train 3 LNG Storage Tank Price, and then reducing the Train 3 Specific Common Systems Contract Price Component by such difference.

C. ***Other Amendments to Address Termination of Train 1 EPC Agreement or Train 2 EPC Agreement***. In the event that the Parties intend to enter into a Change Order under this Section 6.12, the Parties acknowledge that such Change Order will include appropriate modifications to this Agreement to incorporate the Expansion Facility Dock Work and/or remove the Train 3 LNG Storage Tank from the Work, including adding or removing applicable Minimum Acceptance Criteria, Performance Tests, Guarantee Conditions, Scope of Work and Design Basis descriptions and referenced Drawings and Specifications, and modifying the definitions of Substantial Completion, Final Completion and other applicable defined terms herein.

ARTICLE 7
CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

7.1 **Contract Price**. As compensation in full to Contractor for the full and complete performance of the Work and all of Contractor's other obligations under this Agreement, Owner shall pay and Contractor shall accept Two Billion Twenty Million U.S. Dollars (U.S.$2,020,000,000) (the "***Contract Price***"). The Contract Price is subject to adjustment only by Change Order as provided in Article 6, and includes all Taxes, costs, charges, and expenses of whatever nature applicable to the Work. For the avoidance of doubt, the Contract Price does not include Texas state and applicable local sales and use taxes on Tax Exempt Equipment (which is subject to exemption as provided under Section 4.5A) and Taxable Equipment. The Contract Price is separated, in accordance with the definition of separated contract as defined in 34 Tex. Admin Code Rule § 3.291(a)(13), as follows:

A. Four Hundred Ten Million Thirty Three Thousand Six Hundred Ninety Nine U.S. Dollars (US$410,033,699) ("***Tax Exempt Equipment Price***") for Tax Exempt Equipment. Such Tax Exempt Equipment is listed in Attachment FF (which may be changed by Change Order in accordance with Section 4.5A.2). The Tax Exempt Equipment Price includes the cost of Tax Exempt Equipment, including markup, overhead, profit and freight, but excluding labor.

B. Three Hundred Thirty Seven Million One Hundred Ninety Five Thousand Three Hundred Thirty U.S. Dollars (US$337,195,330) (*"**Taxable Equipment Price**")* for all Equipment (including materials) to be permanently installed in the Train 3 Project (other than Tax Exempt Equipment) ("***Taxable Equipment***"). The Taxable Equipment Price includes the cost of Equipment (including markup, overhead, profit, and freight if the Vendor provides the freight, but excluding labor). Such Taxable Equipment is listed in Attachment FF.

C. One Billion Two Hundred Seventy Two Million Seven Hundred Seventy Thousand Nine Hundred Seventy One U.S. Dollars (US$1,272,770,971) ("***Labor and Skills Price*")** for all Work in this Agreement other than for Tax Exempt Equipment and Taxable Equipment, which such Work includes all labor, engineering, design, services not subject to Texas state and applicable local sales and use taxes, installation, consumables, construction tools, freight, equipment rentals, overhead and all other items of whatever nature applicable to the Work. Excluding only the Tax Exempt Equipment Price and the Taxable Equipment Price, the Labor and Skills Price shall include all costs, charges and expenses of whatever nature applicable to the Work, including Taxes on all Work and Texas state and applicable local sales and use taxes on all Work other than on Tax Exempt Equipment and Taxable Equipment.

7.2 **Contract Price Components.**

A. ***Train 3 Specific Common Systems Contract Price Component***. The portion of the Contract Price allocated to Owner under this Agreement for Train 3 Specific Common Systems shall be Five Hundred Sixty Seven Million Seven Hundred Sixty Two Thousand Five Hundred Seventy Nine U.S. Dollars (U.S.$567,762,579) (the "***Train 3 Specific Common Systems Contract Price Component***"). The Train 3 Specific Common Systems Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Work associated with the Train 3 Specific Common Systems).

B. ***Train 3 Specific Contract Price Component***. The portion of the Contract Price allocated to the Train 3 Specific Work is One Billion Four Hundred Fifty Two Million Two Hundred Thirty Seven Thousand Four Hundred Twenty One U.S. Dollars (U.S.$1,452,237,421) (the "***Train 3 Specific Contract Price Component***"). The Train 3 Specific Contract Price Component shall be adjusted only by Change Order executed by Owner and Contractor and only in the event that Contractor is entitled to an adjustment to the Contract Price hereunder (and only to the extent such Contract Price adjustment is attributable to a change in, or impact to, the Train 3 Specific Work).

7.3 **Interim Payments**.

A. ***Payments***. Progress payments shall be made by Owner to Contractor in accordance with the Payment Milestone Schedule (as may be amended by Change Order pursuant to Section 6.1B or 6.2C) set forth in Schedule C-1, which allocates the payment

of the Contract Price upon completion of Payment Milestones as set forth in Schedule C-1, *provided that* Contractor is otherwise in material compliance with the terms of this Agreement. Owner shall also make payments to Contractor for any unilateral Change Orders issued in accordance with Section 6.1C or 6.2D. Each payment shall be subject to Owner's right to withhold payments under this Agreement, including Section 5.4F, 7.6 and 13.2. Payments shall be made in U.S. Dollars to an account designated by Contractor. The Payment Milestone Schedule shall be amended only by Change Order pursuant to this Agreement.

B. ***Invoices***. Within ten (10) Days after the end of each Month, Contractor shall submit to Owner an Invoice for all Payment Milestones completed during the prior Month, if any. The Payment Milestones will be identified in Schedule C-1. Contractor shall not be entitled to any payment whatsoever for any portion of the Work relating to a particular Payment Milestone until such Payment Milestone is fully completed. Such Monthly Invoice shall also include amounts properly due and owing for Work performed during the prior Month and pursuant to a unilateral Change Order issued pursuant to Section 6.1C or 6.2D. All Invoices for Payment Milestones and unilateral Change Order charges, other than the Invoice for final payment of Work under this Agreement, shall be in the form of Schedule I-1, and shall include all documentation supporting its request for payment as required under this Agreement. Contractor shall provide documentation such as invoices and receipts supporting all amounts billed for unilateral Change Orders issued pursuant to Section 6.1C or 6.2D. All Invoices issued to Owner hereunder shall separately state charges for Tax Exempt Equipment, Taxable Equipment and skill, labor and other costs for the Work.

C. ***Interim Lien and Claim Waivers***. Each Invoice received by Owner under this Agreement prior to Final Completion shall be accompanied by (i) fully executed Interim Lien and Claim Waivers from Contractor in the forms of Schedules K-1 and K-2 for all Work performed through the date for which payment is requested, (ii) fully executed Interim Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested and (iii) if requested by Owner, fully executed Interim Lien and Claim Waivers for all Major Sub-subcontractors requested in substantially the forms set forth in Schedules K-3 and K-4 for all Work performed through the date for which payment is requested. Interim Lien and Claim Waivers, however, shall not be required from Major Subcontractors or Major Sub-subcontractors until they have performed Work, and Major Subcontractors and Major Sub-subcontractors shall be required to submit additional Interim Lien and Claim Waivers only if they have performed Work not covered by a previous Interim Lien and Claim Waiver. Submission of all Interim Lien and Claim Waivers is a condition precedent to payment of any Invoice.

D. ***Review and Approval***. Each Invoice shall be reviewed by Owner and, upon Owner's reasonable request, Contractor shall furnish such supporting documentation and certificates and provide such further information as may be reasonably requested by Owner. Owner shall use reasonable efforts to inform Contractor of Owner's requests within ten (10) Days of Owner's receipt of such Invoice, but failure by Owner to so inform Contractor within such 10-Day period shall not waive,

alter or reduce any of Owner's rights or Contractor's obligations under this Agreement related to the Invoice. Unless disputed by Owner, each Invoice (less any withholdings allowed under this Agreement, including Retainage as set forth in Section 7.14), shall be due and payable thirty (30) Days after it, and all documentation required under this Agreement, is received by Owner. If an Invoice is disputed by Owner, then payment shall be made for all undisputed amounts owed by Owner and the dispute shall be resolved pursuant to Article 18. Payment on disputed amounts shall be made as soon as such dispute is resolved.

E. ***Maximum Cumulative Payments***. The Parties have agreed upon and set forth in Schedule C-2 a schedule of the maximum cumulative amounts ("***Maximum Cumulative Payment Schedule***") that Contractor is allowed to invoice Owner at any one time during the Train 3 Project for the completion of the Work, regardless of whether Contractor has completed Work (via completion of Payment Milestones) that represents amounts greater than the Maximum Cumulative Payment Schedule. The Maximum Cumulative Payment Schedule sets the maximum cap on invoiced amounts, but does not set a minimum amount that Contractor may invoice Owner, as Sections 7.3A and 7.3B specify the procedure for determining the amount of each Invoice. The Maximum Cumulative Payment Schedule shall be adjusted only by Change Order executed by both Parties.

7.4 **Final Completion and Final Payment**. Upon Final Completion, Contractor shall, in addition to any other requirements in this Agreement for achieving Final Completion, including those requirements set forth in Section 1.1 for the definition of Final Completion, submit a fully executed final Invoice in the form attached hereto as Schedule I-2 along with (i) a statement summarizing and reconciling all previous Invoices, payments and Change Orders, (ii) an affidavit that all payrolls, Taxes, liens, charges, claims, demands, judgments, security interests, bills for Equipment, and any other indebtedness connected with the Work have been paid, including Texas state and applicable local sales and use taxes which Contractor is required under this Agreement to pay, (iii) fully executed Final Lien and Claim Waivers from Contractor in the forms of Schedules K-5 and K-6, (iv) fully executed Final Lien and Claim Waivers from each Major Subcontractor in the forms set forth in Schedules K-7 and K-8, (v) if requested by Owner, fully executed Final Lien and Claim Waivers from each Major Sub-subcontractor in substantially the forms set forth in Schedules K-7 and K-8, and (vi) to the extent not previously provided to Owner, Retainage Letters of Credit that, in the aggregate, equal the full amount of Retainage to be withheld by Owner under this Agreement. No later than thirty (30) Days after receipt by Owner of such final Invoice and all requested documentation and achieving Final Completion, Owner shall, subject to its rights to withhold payment under this Agreement, pay Contractor the balance of the Contract Price (including the Retainage, if Retainage Letters of Credit in the full amount of Retainage have been provided by Contractor).

7.5 **Payments Not Acceptance of Work**. No payment made hereunder by Owner shall be considered as approval or acceptance of any Work by Owner or a waiver of any claim or right Owner may have hereunder. All payments shall be subject to correction or adjustment in subsequent payments.

7.6 **Payments Withheld**. In addition to disputed amounts set forth in an Invoice, Owner may, in addition to any other rights under this Agreement, at law or in equity and upon fifteen (15) Days prior written notice to Contractor, withhold payment on an Invoice or a portion thereof, or collect on the Letter of Credit, in an amount and to such extent as may be reasonably necessary to protect Owner from loss due to:

A. Defective Work not remedied in accordance with this Agreement;

B. stop payment notices, liens or other encumbrances on all or a portion of the Site, the Work or the Facility, which are filed by any Subcontractor, any Sub-subcontractor or any other Person acting through or under any of them, *provided that* Owner has made payment to Contractor of all undisputed amounts due to Contractor in accordance with the terms of this Agreement;

C. any breach by Contractor of any material provision of this Agreement;

D. the assessment of any fines or penalties against Owner as a result of Contractor's failure to comply with Applicable Law or Applicable Codes and Standards;

E. amounts paid by Owner to Contractor in a preceding Month incorrectly or for which there was insufficient or inaccurate supporting information;

F. Delay Liquidated Damages which Contractor owes under the terms of this Agreement;

G. failure of Contractor to make payments to Subcontractors as required under their respective Subcontracts, excluding the right of Contractor to withhold payments to Subcontractors as provided under the terms of the applicable Subcontract;

H. damage or loss to the Existing Facility caused by Contractor or any of its Subcontractors or Sub-subcontractors, subject to the limitations of Contractor's liability for such damage or loss as set forth in Section 20.2; or

I. any other costs or liabilities which Owner has incurred for which Contractor is responsible, unless otherwise covered by insurance or bond in a form reasonably satisfactory to Owner, *provided that* Contractor is in compliance with its indemnity, hold harmless and defense obligations under this Agreement.

Owner shall pay Contractor the amount withheld or collected on the Letter of Credit if Contractor (i) pays, satisfies or discharges the applicable claim of Owner against Contractor under or by virtue of this Agreement and provides Owner with reasonable evidence of such payment, satisfaction or discharge, (ii) cures all such breaches and Defaults in the performance of this Agreement, or (iii) provides Owner with a bank guarantee or bond reasonably satisfactory to Owner in the amount of the withheld payment.

7.7 **Interest on Late Payments**. Any amounts due but not paid hereunder shall bear interest at the lesser of (i) an annual rate equal to the prime rate published by the Wall Street Journal plus two percent (2%), or (ii) the maximum rate permitted under Applicable Law.

7.8 **Work Breakdown Structure**. Within sixty (60) Days after the NTP, Contractor shall deliver to Owner for Owner's written approval a detailed breakdown of the Work by activity, with each such activity having a written description and hierarchal coding ("***Work Breakdown Structure***"). The Work Breakdown Structure shall be consistent with the Baseline CPM Schedule and the form of Work Breakdown Structure in Schedule C-3. After approval by Owner of such Work Breakdown Structure, Contractor shall have the right during the course of the Train 3 Project and upon Owner's written approval, to modify the Work Breakdown Structure, *provided that* at all times it remains consistent with the Baseline CPM Schedule. Contractor shall promptly provide Owner with copies of any revised Work Breakdown Structure.

7.9 **Payment Error**. If an error is made in connection with a payment, and such payment is an overpayment, the overpayment shall be reconciled with the next monthly Invoice, or if no further invoices are planned or the amount of such Invoices are not estimated to be of an amount to properly reconcile the error, then the Party receiving such payment in error shall promptly refund the mistaken amount to the paying Party. Without limiting the preceding sentence, and in addition to any other remedy available to Owner under this Agreement, (i) if Owner discovers that a Payment Milestone was not in fact completed, or that Work associated with an Invoice contained Defective Work, then Owner may, at its sole discretion and upon prior written notice to Contractor, offset the amount of the payment against future payments or collect on the Letter of Credit in the amount of the payment until such Payment Milestone or correction of the Defective Work is achieved or (ii) if Owner discovers that any amounts paid by it to Contractor in a preceding Month was incorrect or lacked sufficient or accurate supporting information, then Owner may, at its sole discretion but only after giving prior written notice to Contractor, offset such amounts against future payments or collect on the Letter of Credit for such amounts until sufficient and accurate supporting information is provided pursuant to Section 7.3.

7.10 **Currency**.

A. Unless otherwise specified, all amounts contained herein are in and shall be paid in U.S. Dollars.

B. Foreign Exchange Parity.

As of the Effective Date, the Contract Price assumes the following foreign (non-U.S. Dollar) currency at the listed value and exchange rate to the U.S. Dollar:

FOREIGN CURRENCY	VALUE IN FOREIGN CURRENCY	EXCHANGE RATE
EURO	€ 86,427,000	1.08 USD TO EURO

On the date Owner issues NTP, the Contract Price shall be subject to an upward or downward adjustment by Change Order to account for currency fluctuations. This adjustment will be determined by multiplying (a) the difference of the exchange rate as quoted by the Wall Street Journal on the following website:

http://online.wsj.com/public/page/news-currency-currencies-trading.html

for the closing exchange rate on the date Owner issues NTP (the "***NTP Exchange Rate***") and the above listed exchange rate ("***Contract Exchange Rate***") by (b) the corresponding value in foreign currency listed above ("***Value of Foreign Currency***").

For clarity, the Contract Price adjustment shall be determined by the following formula:

$$Adjustment = [Value\ of\ Foreign\ Currency\ x\ [NTP\ Exchange\ Rate - Contract\ Exchange\ Rate]]$$

The Change Order implementing the foregoing adjustment shall also further itemize the adjustment, as applicable, into the Tax Exempt Equipment Price, Taxable Equipment Price, Labor and Skills Price, Train 3 Specific Contract Price Component, and Train 3 Common System Contract Price Component.

7.11 **Allowance for Nickel in 9% Nickel Steel Plate**. As of the Effective Date, the Contract Price is based upon an estimated cost for 9% nickel steel plate. In accordance with Section 6.2A.5 and as further set forth in Attachment KK, the Contract Price will be subject to an adjustment via Change Order to account for the actual 9% nickel steel cost.

7.12 **Conditions Precedent to Payment**. It shall be a condition precedent to Contractor's entitlement to receive any payment from Owner under this Agreement that Contractor has provided to Owner, and is maintaining (i) the Parent Guarantee and the Letters of Credit in accordance with Section 21.16 and Article 9, and (ii) the insurance policies in accordance with Article 9.

7.13 **Payments to Subcontractors**. Contractor agrees and acknowledges that, if FLIQ 1 or FLIQ2 withholds, offsets or otherwise does not make a payment to T1/T2 EPC Contractor under the Train 1 EPC Agreement or Train 2 EPC Agreement, respectively, Contractor shall prevent T1/T2 EPC Contractor from utilizing payments made by Owner under this Agreement to compensate subcontractors for work performed under the Train 1 EPC Agreement or the Train 2 EPC Agreement. Further, Contractor agrees and acknowledges that, if Owner withholds, offsets or otherwise does not make a payment to Contractor under this Agreement, Contractor shall not utilize payments made by FLIQ1 or FLIQ2 under the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively, for Work performed under this Agreement.

7.14 **Retainage and Retention Letter of Credit**.

A. ***Retainage***. Owner shall withhold from each Invoice submitted on or after NTP from Contractor an amount equal to two and one-half percent (2.5%) of the amount of each Invoice ("***Retainage***"). For amounts paid by Owner to Contractor prior to NTP that are credited against the Contract Price, Retainage for such amounts shall be withheld from the first payments made on or after NTP (in addition to any other Retainage allowed to be withheld from such first payments on or after NTP). Subject to Owner's rights under the Agreement, Retainage withheld from Invoice payments shall be released by Owner to Contractor as follows: (i) upon the first anniversary of Substantial Completion, Owner shall release a portion of the Retainage while continuing to withhold Retainage equal to the sum of (1) one and one-half percent (1.5%) of the original Contract Price plus (2) the estimated cost of correcting any outstanding Defects then-existing at such time; and (ii) upon the expiration of the Defect Correction Period, Owner shall release all remaining Retainage. Owner shall release Retainage based upon the foregoing sentence promptly after the passing of the event prompting such release but in any event within thirty (30) Days after such event and receipt from Contractor for an invoice for the release of such Retainage. Because Retention Letters of Credit may be substituted for Retainage as set forth in Sections 7.13B and 9.3, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in this Section 7.14A and reductions to the Retention Letters of Credit and releases of Retainage shall correspond in time, and in the amounts, as set forth above in this Section 7.14A.

B. ***Retention Letter of Credit as a Substitute for Retainage***. At their sole discretion, Contractor, CB&I, Zachry or Chiyoda may elect to substitute a Retention Letter of Credit, pursuant to Section 9.3, in exchange for Owner releasing previously withheld Retainage, or for Owner to forego the withholding of Retainage from the payment of an Invoice, in the amount of such Retention Letter of Credit.

1. With respect to previously withheld Retainage, if Contractor, CB&I, Zachry, or Chiyoda make an election to provide Owner with a Retention Letter of Credit, Owner shall release previously withheld Retainage promptly to the applicable party in the amount of the Retention Letter of Credit provided, after receipt of such Retention Letter of Credit and an invoice for the Retainage release (but in any event within thirty (30) Days after receipt of such Retention Letter of Credit and invoice).

2. With respect to Retainage to be withheld from a prospective Invoice payment, if Contractor, CB&I, Zachry, or Chiyoda provide Owner with a Retention Letter of Credit seven (7) or more Days prior to the payment due date of such Invoice (and such Retention Letter of Credit has an effective date no later than Owner's Invoice payment due date), Owner, unless restricted from doing so by its financing documents with its Lenders, shall not withhold that portion of the Retainage (in the amount of such Retention Letter of Credit) from the Invoice payment. In the event Contractor, CB&I, Zachry or Chiyoda provide a Retention Letter of Credit as set forth in the

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 LOSS

8.1 **Title**.

A. ***Clear Title***. Subject to Contractor's receipt of payment of undisputed amounts when due under this Agreement, Contractor warrants and guarantees to Owner that Owner will receive good and legal title to and ownership of the Work and the Train 3 Expansion shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to Owner.

B. ***Title to Work***. Title to all or any portion of the Work (other than Work Product) shall pass to Owner upon the earlier of (i) payment therefor, (ii) delivery of the Work to the Site, or (iii) incorporation of such Work into the Train 3 Expansion. Transfer of title to Work shall be without prejudice to Owner's right to reject Defective Work, or any other right of Owner under the Agreement.

8.2 **Risk of Loss**.

A. ***Prior to Substantial Completion***. Notwithstanding passage of title as provided in Section 8.1 of this Agreement, and except as otherwise stated in Section 8.2A.1, Contractor shall bear the risk of physical loss and damage to the Train 3 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Expansion Facility) until Substantial Completion of the Train 3 Expansion is achieved.

1. Notwithstanding Section 8.2A above, Contractor shall not be liable to Owner for any such physical loss or damage if and to the extent: (a) such physical loss or damage is not insured under the builder's risk policy or marine cargo insurance policy required to be provided by Owner under Sections 2.A.1 and 2.A.2 of Attachment O to this Agreement because of Owner's failure to maintain such policies in full force and effect at all times required under this Agreement, (b) Owner receives payment from the insurance company or companies under such policies for such physical loss or damage, (c) such physical loss or damage is not insured under the builder's risk policy because of an exclusion specified in such policy and Contractor is not otherwise liable to Owner pursuant to Section 8.2A.2, (d)

the value of such physical loss or damage exceeds the named windstorm, flood or earthquake sublimit(s) as a result of damage or loss caused by a named windstorm, flood or earthquake event, (e) the value of such physical loss or damage exceeds the monetary policy limits (including any sublimits or aggregate limits) of the builder's risk policy or (f) the physical loss or damage is caused by (1) ionizing radiation or contamination by radioactivity from any nuclear fuel or nuclear waste, (2) nuclear weapons material, (3) war, invasion, act of foreign enemy hostilities or warlike operations, civil war, rebellion, revolution or insurrection, (4) act of any person in connection with activities directed towards the overthrow by force of the government, (5) permanent or temporary dispossession resulting from confiscation, nationalization, commandeering or requisition by any lawfully constituted authority or (6) an act of terrorism (as defined in the builder's risk policy); *provided, however*, with respect to deductibles under the builder's risks and marine cargo insurance, Contractor shall remain liable to the Owner for the policy deductibles, regardless of fault, but not to exceed One Million Dollars (U.S.$1,000,000) per occurrence for such deductibles as specified in Section 2.B of Attachment O; *provided further, however*, with respect to the foregoing proviso, if Contractor is also liable to FLIQ1 or FLIQ2 for the builder's risks or marine cargo insurance policy deductibles under Section 8.2A.1 of the Train 1 EPC Agreement or the Train 2 EPC Agreement, respectively, for the same occurrence, then Contractor's total liability, in the aggregate, for such deductibles under this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement shall not exceed One Million Dollars (U.S.$1,000,000) per occurrence, with such liability being credited equally between Owner, FLIQ 1, and FLIQ2 (unless Owner, FLIQ 1 and FLIQ2 agree otherwise in writing). This Section 8.2A.1 shall not be interpreted to relieve Contractor of any of its other obligations or liabilities under the Agreement, including its obligations with respect to Defective Work and Corrective Work.

2. To the extent of Contractor's, Subcontractor's or Sub-subcontractor's fault, Contractor shall be liable to Owner for physical loss or damage that is not covered by the builder's risk policy to be procured by Owner under this Agreement because of any of the following exclusions to such builder's risk policy: aircraft, watercraft or vehicle, cash and money, wear, tear, erosion and corrosion, inventory and stocktaking, defects in design, plan, specification, material or workmanship, penalties and consequential loss, pollution and contamination arising out of a covered perils, contractor's plant and equipment, transmission and distribution lines, wet works, hydrocarbons, piling, electronic data, asbestos or toxic mold. Notwithstanding anything to the contrary herein, the Parties agree and acknowledge that, in the event that an insurance claim for physical loss or damage to the Train 3 Expansion is denied by the builder's risk policy insurer as a result of an exclusion listed in this Section 8.2A.2, Owner shall have the right to elect, at its own discretion, whether to dispute any such denial of the claim; *provided, however*, in the event of Owner's election to

not dispute such denial of the insurance claim, such election shall not prejudice Contractor's right to dispute same with the insurer as an additional insured under the builder's risk policy or any argument by Contractor that such exclusion was not applicable in any Dispute with Owner arising out of a claim by Owner against Contractor that Contractor is liable to Owner for the physical loss or damage pursuant to this Section 8.2A.2.

3. With respect to any physical loss or damage to the Train 3 Expansion and each component thereof (including all Equipment, whether or not yet delivered to the Site or incorporated into the Train 3 Expansion), Contractor shall be entitled to a Change Order adjusting the Guaranteed Substantial Completion Date and Required Final Completion Date if and to the extent permitted under Section 6.7A.

4. To the extent Contractor does not bear the risk of physical loss or damage as described in Section 8.2A, then with respect to such physical loss or damage to the Train 3 Expansion, Contractor shall be entitled to a Change Order adjusting the Contract Price for: (i) the cost to repair, reconstruct or replace the damaged Train 3 Expansion (which such adjustment shall account for updated progress payments to Contractor to maintain cash flows consistent with the payment philosophies underlying the original progress payment terms and Maximum Cumulative Payment Schedule); (ii) the cost of debris removal, and (iii) to the extent recovered by Owner under insurance provided by Owner under Section 2.A.1 of Attachment O or to the extent otherwise directed by Owner in writing, the cost to accelerate or expedite such repair, reconstruction or replacement and stand-by costs, if any.

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.

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.

B. ***No Cancellation***. All policies providing coverage hereunder shall contain a provision that at least thirty (30) Days' prior written notice shall be given to the non-

procuring Parties and additional insureds prior to cancellation, non-renewal or material change in the coverage.

C. ***Obligations Not Relieved***. Anything in this Agreement to the contrary notwithstanding, the occurrence of any of the following shall in no way relieve Contractor from any of its obligations under this Agreement: (i) failure by Contractor to secure or maintain the insurance coverage required hereunder; (ii) failure by Contractor to comply fully with any of the insurance provisions of this Agreement; (iii) failure by Contractor to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement; (iv) the insolvency, bankruptcy or failure of any insurance company providing insurance to Contractor; (v) failure of any insurance company to pay any claim accruing under its policy; or (vi) losses by Contractor or any of its Subcontractors or Sub-subcontractors not covered by insurance policies.

D. ***Unavailable Insurance***. If any insurance (including the limits, coverage, endorsements, policy terms, conditions or deductibles thereof) hereby required to be maintained, other than insurance required by Applicable Law to be maintained, shall not be reasonably available in the commercial insurance market, Owner and Contractor shall not unreasonably withhold their agreement to waive such requirement to the extent that maintenance thereof is not so available; *provided, however*, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two (2) independent advisors, including insurance brokers, of recognized international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the required amount or coverage is not so available, explaining in detail the basis for such conclusions), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party; and *provided further* that such waiver is permitted pursuant to any agreements between Owner and its Lenders. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market.

9.2 **Irrevocable Standby Letter of Credit**. Owner shall provide Contractor with at least ten (10) Business Days prior written notice of Owner's intent to issue NTP. Prior to Owner's issuance of NTP (or, if Owner has not provided at least 10 Business Days prior written notice of its issuance of NTP in accordance with the foregoing sentence, then within 10 Business Days after receipt of such notice), and as a condition precedent to Contractor's right to receive any payments under this Agreement, except payments expressly permitted pursuant to an LNTP, Contractor shall deliver to Owner an irrevocable standby letter of credit, naming Owner as beneficiary, in the amount of One Hundred and Twenty-Two Million Five Hundred Thousand U.S. Dollars (U.S.$122,500,000), and in the form of Schedule R-1, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate, with a long-term rating of at least Investment Grade ("***Letter of Credit***"). As used herein, "***Investment Grade***" means a long-term local currency issuer credit rating of at least A- by Standard & Poor's and a long-term credit rating of at least A3 by Moody's Investors Service. If at any time the rating of the commercial bank that issued the Letter of Credit falls below either of such ratings, and at Owner's written request, Contractor shall replace the Letter of Credit

within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the letter of credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages or any other liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-1 specifying the general nature of such Default or breach or Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Letter of Credit that it has decided not to extend the Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Letter of Credit for all remaining funds in the Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Letter of Credit and from a commercial bank meeting the requirements in this Section 9.2. Upon the achievement of Substantial Completion of the Train 3 Expansion, and Owner's acceptance and execution of the Substantial Completion Certificate in accordance with this Agreement, Owner shall return the original Letter of Credit, and any Letter of Credit amendments that have been issued, to the commercial bank that issued the Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-1 stating the Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Letter of Credit shall occur no later than five (5) Business Days after Owner's acceptance of Substantial Completion of the Train 3 Expansion. The Letter of Credit shall remain in full force and effect from the issuance of the Letter of Credit through the Substantial Completion of the Train 3 Expansion. Partial drawings are permitted under the Letter of Credit. In addition, the Parties acknowledge that Contractor may fulfill the Letter of Credit requirements set forth in this Section 9.2 through multiple, coexistent Letters of Credit issued to Owner with the applicants of those Letters of Credit being either CB&I, Zachry, Chiyoda or Contractor; *provided that*, each of those Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Letters of Credit, in the aggregate, equal the dollar values required herein.

9.3 **Retention Letter of Credit**. Owner may withhold Retainage as provided under Section 7.14. As a condition precedent to Contractor's right to receive Retainage withheld by Owner, Contractor, in its sole discretion at any time during the course of the Train 3 Project, may deliver to Owner a retention letter of credit, naming Owner as beneficiary, in an amount not to exceed the cumulative amount withheld by Owner under Section 7.14A, in the form of Schedule R-2, and issued by a commercial bank, with offices in the United States of America capable of accepting a drawing certificate under the retention letter of credit and issuing funds

on such drawing certificate, with a long-term rating of at least Investment Grade ("***Retention Letter of Credit***"). If at any time the rating of the commercial bank that issued the Retention Letter of Credit falls below either of the Investment Grade ratings, and at Owner's written request, Contractor shall replace the Retention Letter of Credit within ten (10) Business Days with an equivalent instrument issued by a commercial bank meeting such rating requirements and with offices in the United States of America capable of accepting a drawing certificate under the Retention Letter of Credit and issuing funds on such drawing certificate. Owner shall have the right to draw down on or collect against such Retention Letter of Credit upon Owner's demand in the event of the following: (i) a Default by Contractor or the owing by Contractor to Owner under this Agreement for Delay Liquidated Damages, liabilities, damages, losses, costs or expenses arising out of or relating to a breach of any obligation under this Agreement by Contractor, such Default or otherwise; (ii) Owner has provided fourteen (14) Days' written notice to Contractor in the form of Annex III to Schedule R-2 specifying the general nature of such Default or breach, Delay Liquidated Damages, liabilities, damages, losses, costs or expenses owed to Owner and stating Owner's intent to draw against the Retention Letter of Credit and the amount to be drawn; and (iii) Contractor has failed to cure such Default or pay such damages, losses, costs, expenses or other liabilities within such fourteen (14) Day period. The amount drawn on the Retention Letter of Credit shall not be greater than the amount that Owner, at the time of the drawing, reasonably estimates is owed it under the Agreement for liabilities, damages, losses, costs or expenses or is necessary to remedy the Default or breach of the Agreement. In addition, should the commercial bank notify Owner and Contractor pursuant to the terms of the Retention Letter of Credit that it has decided not to extend the Retention Letter of Credit beyond the then current expiration date, Owner shall also have the right to draw down on or collect against the Retention Letter of Credit for all remaining funds in the Retention Letter of Credit upon Owner's demand if Contractor has not, prior to thirty (30) Days before the then current expiration date, delivered to Owner a replacement letter of credit substantially identical to the Retention Letter of Credit and from a commercial bank meeting the requirements in this Section 9.3. Partial drawings are permitted under the Retention Letter of Credit. The Retention Letter of Credit shall remain in full force and effect from the issuance of the Retention Letter of Credit through the expiration of the Defect Correction Period under this Agreement. After expiration of the Defect Correction Period, Owner shall return the original Retention Letter of Credit, and any Retention Letter of Credit amendments that have been issued, to the commercial bank that issued the Retention Letter of Credit, along with a cover letter in the form of Annex IV of Schedule R-2 stating the Retention Letter of Credit and amendments are being returned for "cancellation." Such notices and return of the Retention Letter of Credit shall occur no later than five (5) Business Days after expiration of the Defect Correction Period. The amount of the Retention Letter of Credit shall be reduced on the same basis that Retainage is released pursuant to Section 7.14A. No later than five (5) Business Days after the passage of an event prompting a release of Retainage as set forth in Section 7.14A, Owner shall provide the commercial bank that issued the Retention Letter of Credit with written notice of such event in the form of Annex VI of Schedule R-2 stating that such event has occurred. For purposes of clarity, the aggregate value of the Retainage withheld by Owner and the Retention Letters of Credit will at all times be equal to the amounts prescribed in Section 7.14A. In addition, the Parties acknowledge that Contractor may fulfill the Retention Letter of Credit requirements set forth in this Section 9.3 through multiple, coexistent Retention Letters of Credit issued to

Owner with the applicants of those Retention Letters of Credit being either CB&I, Zachry, Chiyoda or Contractor; *provided that*, each of those Retention Letters of Credit shall meet the requirements set forth herein, and at all times, the amount of those Retention Letters of Credit, in the aggregate, equal the dollar values required herein (including any reductions in value as set forth herein).

9.4 **Financial Statements**. As soon as available, but in any event within sixty (60) Days after the end of each fiscal quarter of Zachry Guarantor, CB&I Guarantor, and Chiyoda Guarantor, Contractor shall deliver to Owner the unaudited and consolidated balance sheet of Zachry Guarantor, CB&I Guarantor, and Chiyoda Guarantor as of the end of such quarter, the related consolidated statements of operations, income, cash flows, retained earnings and stockholders' equity for such quarter, all of which shall be certified by the chief financial officer or equivalent officer of each of Zachry Guarantor, CB&I Guarantor, and Chiyoda Guarantor subject to normal year-end audit adjustments. As soon as available, but in any event not later than one-hundred twenty (120) Days after the end of each fiscal year of Zachry Guarantor, CB&I Guarantor and Chyioda Guarantor, Zachry Guarantor, CB&I Guarantor and Chiyoda Guarantor shall deliver to Owner a copy of the audited consolidated balance sheets at the end of each such year as well as the related consolidated statements of income, retained earnings and of cash flows for such year. All financial statements delivered pursuant to this Section 9.4 shall be complete and correct in all material respects and shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein.

ARTICLE 10
OWNERSHIP OF DOCUMENTATION

10.1 **Ownership of Work Product**.

A. Owner and Contractor acknowledge that during the course of, and as a result of, the performance of the Work and prior work related to the Train 3 Expansion done by Contractor for Owner (including any work done by Contractor through its joint venture partners CB&I and Zachry or any of its Affiliates under the FEED Agreement or any other agreements between the Parties related to the Train 3 Project), Contractor or its Affiliates, Subcontractors or Sub-subcontractors will create or have created for this Train 3 Project certain plans, operating and maintenance procedures and manuals, Drawings, Specifications, calculations, or other technical tangible manifestations of Contractor's efforts (whether written or electronic) (hereinafter individually or collectively referred to as "***Work Product***"). Subject to Sections 10.1A.1, 10.1A.2 and 10.1B below, Work Product prepared by Contractor (including any work done by Contractor through its joint venture partners CB&I and Zachry) or its Affiliates, Subcontractors or Sub-subcontractors shall be "works made for hire," and all rights, title and interest to the Work Product, including any and all copyrights in the Work Product, shall be owned by Owner irrespective of any copyright notices or confidentiality legends to the contrary which may have been placed in or on such Work Product by Contractor, its Affiliates, Subcontractors, Sub-subcontractors or any other Person. If, for any reason, any part of or all of the Work Product is not considered a work made for hire for Owner or if ownership of all right, title and interest in the Work Product shall not otherwise vest in Owner, then Contractor agrees that such ownership and copyrights in

the Work Product, whether or not such Work Product is fully or partially complete, shall be automatically assigned from Contractor to Owner without further consideration, and Owner shall thereafter own all right, title and interest in the Work Product, including all copyright interests.

1. If Contractor, using commercially reasonable efforts, is unable to procure ownership of the Work Product for Owner as set forth in Section 10.1A above from any Subcontractor and Sub-subcontractor, then, at a minimum, Contractor shall procure for Owner and its Affiliates from such Subcontractors and Sub-subcontractors an irrevocable, perpetual and royalty-free license (including with right to assign its right without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in the Facility) to use, disclose, modify and copy such Work Product for any purpose relating to the Expansion Facility.

2. For the avoidance of doubt, Contractor shall not be required to obtain rights to Work Product as set forth in Section 10.1A above from Subcontractors and Sub-subcontractors providing bulk commodities or generic "off-the-shelf" Equipment.

B. Notwithstanding Section 10.1A, as among Owner, Zachry, CB&I, Chiyoda and Contractor, Zachry, CB&I and Chiyoda shall retain ownership of all proprietary Intellectual Property Rights owned by Zachry, CB&I, or Chiyoda and developed by Zachry, CB&I, or Chiyoda outside this Agreement, the FEED Agreement or any other agreements between the Parties (or their Affiliates) related to the Expansion Facility (hereinafter referred to as "***Contractor's Intellectual Property***"), regardless of whether such Contractor's Intellectual Property is included in the Work Product, and nothing in this Section 10.1 shall result in a transfer of ownership of any Contractor's Intellectual Property or the proprietary Intellectual Property Rights owned and developed by Contractor's Subcontractors or Sub-subcontractors for any project other than the Expansion Facility ("***Third Party Proprietary Work Product***"). With respect to such Contractor's Intellectual Property and Third Party Proprietary Work Product relating to the Work or the Expansion Facility, Contractor hereby grants Owner and its Affiliates an irrevocable, perpetual and royalty-free license (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use, disclose, modify and copy such Contractor's Intellectual Property and Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided, however*, and notwithstanding the foregoing, with respect to the Third Party Proprietary Work Product of APCI, BASF (to the extent of the OASE technology, products and related gas processing technology it is providing as part of the Work) and Ortloff (to the extent of the gas processing technology it is providing as part of the Work), Contractor hereby grants Owner and its Affiliates irrevocable, perpetual and royalty-free licenses (including with right to assign its rights without consent to any owner of any portion of the Expansion Facility or any purchaser of an interest in all or part of the Facility) to use such Subcontractor's Third Party Proprietary Work Product for any purpose relating to the Expansion Facility; *provided further, however*, if Owner uses Third Party

Proprietary Work Product or Contractor Intellectual Property for purposes other than those relating to the Expansion Facility, and Owner does not procure the necessary ownership, license or rights for such use, Owner shall indemnify, defend and hold harmless the Contractor Indemnified Parties with respect to any claims, damages, losses, liabilities or other causes of action arising from such use. All Subcontracts and Sub-subcontractors shall contain provisions consistent with this Section 10.1 except as provided in Section 10.1A.2 above.

10.2 **Return/Delivery of Certain Property**. All Work Product, and all copies thereof, shall be returned or delivered to Owner upon the earlier of Substantial Completion of the Train 3 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations set forth in Article 19, retain one record set of the Work Product and (ii) Contractor's Equipment Subcontractors and Equipment Sub-subcontractors may retain any Work Product generated by them so long as Owner has been provided the following copies of such Work Product: six (6) hard copies; two (2) reproducible Drawings, where applicable; and two (2) sets (native and .pdf files) of documents on CD-ROM for those Drawings and Specifications generated using CAD or other digital means.

10.3 **Contractor's License in Work Product**. Owner hereby, on behalf of itself and its Affiliates, grant to Contractor an irrevocable, perpetual and royalty-free license to use, modify and copy the Work Product for any other project, except for any of the following which may be in such Work Product: (i) any proprietary intellectual property rights owned by Owner or any Affiliate of Owner; (ii) any proprietary intellectual property rights in which Owner or an Affiliate of Owner has a license; or (iii) any proprietary intellectual property rights developed during the performance of this Agreement, the FEED Agreement or any other agreement between the Parties relating to the Expansion Facility, which was derived in whole or part by participation of Owner or any Owner Affiliate. As a condition of using on another project any Work Product which Contractor has a license under this Section 10.3, Contractor shall remove from the Work Product any reference to the Expansion Facility or Owner. The foregoing license and rights to use any Work Product granted to Contractor shall be subject to any limitations imposed on Contractor by third parties which have any ownership interest in such Work Product or any proprietary intellectual property embedded therein, and Contractor shall indemnify, defend and hold the Owner Indemnified Parties harmless with respect to any claims, damages, losses, liabilities or other causes of action which relate to Contractor's use of any Work Product for any purposes other than for the Expansion Facility.

10.4 **Owner Provided Documents**. All written materials, plans, drafts, specifications, computer files or other documents (if any) prepared or furnished by Owner, its Affiliates or any of Owner's other consultants or contractors shall at all times remain the property of Owner, and Contractor 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 Owner upon the earlier of Substantial Completion of the Train 3 Expansion and termination of this Agreement, except that (i) Contractor may, subject to its confidentiality obligations as set forth in Article 19, retain one record set of such documents or other media and (ii) if any such Owner-provided documents are also being utilized by Contractor for purposes of the Train 1 EPC Agreement or Train 2 EPC Agreement, such documents may continue to be utilized for such purposes and returned to

Owner upon the earlier of substantial completion of the Train 1 EPC Agreement or Train 2 Expansion, as applicable, in accordance with the terms of such agreement or termination of the same.

ARTICLE 11
COMPLETION MILESTONES

11.1 **Notice and Requirements for RFSU and RLFC**.

A. ***Requirements of RFSU***. No later than eighteen (18) months after issuance of NTP, Contractor shall provide to Owner for its review and comment detailed RFSU requirements, in the form of checklists, for each Equipment system or subsystem in such designated portion of the Work. Once Contractor has incorporated all of Owner's comments and/or proposed revisions to the RFSU checklists, such RFSU checklists shall form a part of the requirements for achieving RFSU. Contractor shall comply with all requirements for RFSU set forth in this Agreement, including those requirements set forth in the definition of the term RFSU, Attachment A and Attachment V and the RFSU checklists agreed by Owner and Contractor pursuant to this Section. Upon RFSU of each system or subsystem of Equipment, Contractor shall certify to Owner in the form of Attachment L for RFSU of such system or subsystem ("***RFSU Certificate***") that all requirements under this Agreement for Ready For Start Up have occurred, including all of the requirements specified in the applicable RFSU checklist have been completed. The RFSU Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RFSU have been met.

B. ***Notice and Requirements of RLFC***. Without limitation of the foregoing or any other scheduling requirements contained in this Agreement, Contractor shall give Owner two hundred seventy (270) Days' prior written notice of a thirty (30) Day period in which it expects to achieve RLFC for the Train 3 Expansion (the "***First RLFC Window Period***"). Ninety (90) Days after such initial notice, Contractor shall give Owner a second written notice specifying a twenty one (21) Day period in which it expects to achieve RLFC (the "***Second RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Second RLFC Window Period shall be the latest possible twenty one (21) Day period within the First RLFC Window Period. Sixty (60) Days after such second notice, Contractor shall give Owner a third written notice specifying a fourteen (14) Day period falling within the Second RLFC Window Period in which it expects to achieve RLFC (the "***Third RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Third RLFC Window Period shall be the latest possible fourteen (14) Day period within the Second RLFC Window Period. Sixty (60) Days after such third notice, Contractor shall give Owner a fourth written notice specifying a five (5) Day period falling within the Third RLFC Window Period in which it expects to achieve RLFC (the "***Fourth RLFC Window Period***"), *provided that* if Contractor fails to give timely notice of same, the Fourth Window Period shall be the latest possible five (5) Day period within the Third RLFC Window Period. Owner shall be entitled to rely on such first, second, third and fourth notices in scheduling the LNG Tankers for the purpose of loading the first cargo of LNG

for the Train 3 Expansion. In the event that Contractor at any time becomes aware or has reason to believe that its ability to achieve RLFC will be delayed beyond the applicable window period specified in the then current written notice given pursuant to this Section 11.1B, Contractor will immediately give Owner written notice of such fact and of the date on which Contractor then expects to achieve RLFC, but such notice shall not relieve Contractor of its responsibility to achieve RLFC within the then current window period. Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to achieve RLFC in accordance with this Section 11.1B. Contractor shall comply with all requirements for RLFC set forth in this Agreement, including those requirements set forth in the definition of the applicable RLFC and those set forth in Attachments A and V. To the extent not specified in Attachments A and V, the Parties shall, no later than two hundred seventy (270) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon the requirements for achieving RLFC. At such time that the Train 3 Expansion has achieved RLFC, Contractor shall certify to Owner using the applicable RLFC Certificate that all requirements under this Agreement for RLFC have occurred. The RLFC Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for RLFC have been met. Notwithstanding the foregoing and prior to the First RLFC Window Period, Contractor shall cooperate with Owner to propose an alternative notice and windowing procedure that is more cost efficient and economically feasible to Owner. If such alternative is accepted by Owner in its sole discretion, the foregoing notice and windowing procedure shall be modified by Change Order.

C. ***Notice Requirements for LNG Evacuation after RLFC.*** The notice procedures set forth in this Section 11.1C shall be utilized by Contractor and Owner to set forth the time periods within which Owner shall evacuate certain amounts of LNG from the LNG storage tanks at the Facility after the first LNG Tanker is loaded and until Substantial Completion is achieved for the Train 3 Expansion. Subject to Owner's obligations under Section 4.8E, it shall be Owner's sole discretion as to the method utilized by Owner to evacuate LNG from the LNG storage tanks within the time periods set by the procedure in this Section 11.1C. To the extent Owner fails to evacuate LNG in the amounts, and prior to the end of the firm 5-Day windows, set forth by this Section 11.1C, Owner shall have the obligations, and Contractor shall have the rights, set forth by Section 4.8D.

1. As part of Contractor's notice to Owner of the Fourth RLFC Window Period under Section 11.1B, Contractor shall provide Owner with an estimate, using GECP, of LNG volumes it expects to produce during commissioning and testing of the Train 3 Expansion up to Substantial Completion, including identifying estimated 5-Day windows within which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks in order to continue with its commissioning and testing activities. Thirty (30) Days after this written notice, Contractor shall provide Owner with another written notice updating any of the foregoing estimated LNG production volumes and 5-Day windowing periods and also identifying the

first specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks (in addition to that amount of LNG that is to be evacuated by the RLFC LNG Tanker) or the result would be, in Contractor estimation (using GECP), a material interruption in Contractor's commissioning and testing activities. Upon commencement of loading of the RLFC LNG Tanker, Contractor shall give Owner another written notice updating the estimated LNG production volumes during commissioning and testing and the estimated 5-Day windowing periods and shall also identify the second specific, firm 5-Day window in which at least 125,000 m^3 of LNG must be evacuated from the LNG storage tanks. Thereafter, Contractor shall provide Owner with additional written notices no less than once per Month updating the estimated LNG production volumes for commissioning and testing and the estimated 5-Day LNG evacuation windows. In these notices, or in separate written notices, Contractor shall specifically identify subsequent, firm 5-Day windows in which Contractor will need 125,000 m^3 of LNG evacuated from the LNG storage tanks at the Facility, with such notice being provided at least thirty (30) Days in advance of the commencement of such window. If Contractor's commissioning and testing plans change after giving a specific, firm 5-Day window for LNG evacuation, Contractor shall notify Owner as promptly as possible giving the reason for the change, identifying the new 5-Day firm window and providing Contractor's estimate, using GECP, of the effects of any other estimated 5-Day windows. Owner shall use commercially reasonable efforts to provide LNG evacuation in the updated 5-Day window, but shall not be obligated to provide evacuation in accordance with the updated windowing schedule without receiving at least thirty (30) Days prior written notice. Any LNG evacuated by Owner either in amounts greater than 125,000 m^3 of LNG and/or earlier than an established firm 5-Day window shall be credited to Owner's LNG evacuation requirements of the next firm 5-Day window.

D. ***Delay in RLFC***.

1. If (i) RLFC occurs after the Fourth RLFC Window Period or (ii) the Train 3 Expansion, through no fault of Owner, is unable to load an LNG Tanker to demonstrate RLFC, then Contractor shall have the obligation to pay RLFC Delay Liquidated Damages as follows: One Hundred Thousand U.S. Dollars (U.S.$100,000) per Day for each Day, or portion thereof, until the commencement of LNG Tanker loading (the "***RLFC Delay Liquidated Damages***"), subject to an aggregate limitation on the assessment of RLFC Delay Liquidated Damages of One Million Five Hundred Thousand U.S. Dollars (U.S.$1,500,000).

2. If Owner does not deliver the LNG Tanker to load the first cargo within the applicable Fourth RLFC Window and Contractor is ready to receive such LNG Tanker, Contractor shall be entitled to a Change Order if and to the extent permitted under Section 6.7 or 6.8, as applicable.

11.2 **Notice and Requirements for Substantial Completion**. Contractor shall comply with all requirements for Substantial Completion herein, including as set forth in the definition of Substantial Completion herein and in Attachment A and Attachment S. To the extent Contractor has not already provided written notice under Section 11.1C, Contractor shall give Owner not less than ninety (90) Days' prior written notice of its intention to commence each Performance Test, and, on the thirtieth (30th) Day immediately prior to Contractor's intention to commence such testing activities, Contractor shall provide written notice to Owner. To the extent not specified in Attachment S, the Parties shall, no later than two hundred forty (240) Days prior to the Guaranteed Substantial Completion Date, mutually agree upon final test procedures for the conduct of the Performance Tests. Contractor shall provide labor, equipment, supplies, and all other items necessary for the conduct of the Performance Tests; *provided, however*, that Owner shall provide operating and maintenance personnel for supervision by Contractor pursuant to Section 4.4 and the natural gas feed and electricity pursuant to Section 4.8 for Contractor to conduct the Performance Tests. Contractor shall analyze the data obtained during all Performance Tests and ensure that such data reflects the performance standards required hereunder. A complete copy of all raw performance data and a detailed listing of all testing instrumentation utilized shall be provided to Owner at the completion of testing. Upon achieving all requirements under this Agreement for Substantial Completion, Contractor shall certify to Owner using the Substantial Completion Certificate that all of the requirements under this Agreement for Substantial Completion have occurred and shall provide with such Substantial Completion Certificate a Performance Test report and analysis to Owner for the Performance Tests conducted for the Train 3 Expansion in order to achieve Substantial Completion. At a minimum, each Performance Test report shall include (i) the raw data, (ii) the instrumentation utilized for the applicable Performance Tests, (iii) the procedures utilized during the Performance Tests, (iv) calculations and information, and a full explanation concerning same, for adjustments to the Minimum Acceptance Criteria Testing Conditions, as and to the extent specified in Attachment S, and (v) any other supporting information used to demonstrate that the Work has met the Minimum Acceptance Criteria and, as applicable, other requirements of this Agreement for Substantial Completion. The Substantial Completion Certificate shall be accompanied by all other supporting documentation as may be required to establish that the requirements for Substantial Completion have been met.

11.3 **Owner Acceptance of RLFC and Substantial Completion**. Owner shall notify Contractor whether it accepts or rejects the RLFC Certificate and Substantial Completion Certificate, as the case may be, within ten (10) Days following Owner's receipt thereof. All Work shall continue during pendency of Owner's review. Acceptance of such RLFC Certificate and Substantial Completion Certificate shall be evidenced by Owner's signature on the RLFC Certificate or Substantial Completion Certificate, as applicable, which shall be forwarded to Contractor with such notice. If Owner does not agree that RLFC or Substantial Completion, as the case may be, has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days after the delivery by Owner of its notice, Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18 herein. Owner's acceptance shall not

relieve Contractor of any of its obligations to perform the Work in accordance with the requirements of this Agreement.

11.4 **Minimum Acceptance Criteria as a Condition of Substantial Completion**. As a condition of achieving Substantial Completion, Contractor shall achieve all Minimum Acceptance Criteria, as described in greater detail in this Section 11.4. The Performance Tests for determining whether the Work achieves Minimum Acceptance Criteria are described in Attachment S.

A. ***Minimum Acceptance Criteria Not Achieved***. In the event that the Work fails to achieve any of the Minimum Acceptance Criteria, as evidenced by the Performance Test results, by the Guaranteed Substantial Completion Date, as such date may be extended by Change Order as provided herein, then (i) Substantial Completion shall not occur and (ii) the provisions of Section 13.2 shall apply. In addition to the foregoing, Contractor shall attempt for a period of six (6) months (commencing on the date on which the Work or component thereof was shown, through the Performance Tests, to have failed to achieve one or more of the Minimum Acceptance Criteria) ("***Minimum Acceptance Criteria Correction Period***") to correct the Work to enable the Work to achieve all of the Minimum Acceptance Criteria and otherwise achieve Substantial Completion for the Train 3 Expansion. If the Work has not achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, upon the termination of the Minimum Acceptance Criteria Correction Period, then Owner may, in its sole discretion, either (i) grant Contractor a second six (6) month Minimum Acceptance Criteria Correction Period under the same terms and conditions as the first, including the application of Section 13.2; or (ii) claim Contractor Default pursuant to Article 16. In the event that Owner claims such a Default at the end of either six (6) month period, Owner shall be entitled to the damages, costs, losses and expenses to which Owner is entitled under Section 16.1B. If, on the other hand, the Work has achieved all of the Minimum Acceptance Criteria as well as Substantial Completion, during the Minimum Acceptance Criteria Correction Period (or during the second six (6) month period, should Owner elect that option), then Contractor, subject to the limitations of liability set forth in Article 20, shall be liable to Owner for all other damages, costs, losses and expenses to which Owner is entitled under this Agreement, including those under Section 13.2. During any Minimum Acceptance Criteria Correction Period, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under this Agreement, so long as such access does not unreasonably interfere with operation of the Work, the Existing Facility, the Train 1 Expansion (after substantial completion of the Train 1 Expansion) or the Train 2 Expansion (after substantial completion of the Train 2 Expansion) and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

B. ***MCHE Replacement Scenario***. Notwithstanding anything to the contrary in Section 11.4A, if (i) achievement of the LNG Production Rate MAC is the only condition remaining for the achievement of Substantial Completion, (ii) the Performance Test for the LNG Production Rate results in an LNG Production Rate of at least ninety-six percent (96%) (or greater) of the LNG Production Rate MAC and (iii) using GECP, Contractor determines that an underperforming MCHE is the sole Defect preventing achievement of the LNG Production Rate MAC and that such Defect is only capable of being corrected by replacing the Defective MCHE with a new MCHE (collectively, clauses (i) – (iii) being a "***MCHE Replacement Scenario***"), then this Section 11.4Bshall set forth the rights and obligations of the Parties with respect to Contractor's obligation to achieve the Minimum Acceptance Criteria by replacing the MCHE. For purposes of clarity, if any one of the above three (3) conditions is not met for the MCHE Replacement Scenario, or if Owner does not provide the MCHE Replacement Scenario Verification Notice (described below), the Parties' rights and obligations with respect to a failure to meet the Minimum Acceptance Criteria are as set forth in Section 11.4A.

1. If Contractor determines that a MCHE Replacement Scenario has occurred, it will provide written notice to Owner with sufficient evidence for Owner to objectively verify that a MCHE Replacement Scenario has occurred. Such written notice shall be accompanied by a Substantial Completion Certificate in the form of Attachment M, modified in a manner acceptable to Owner, identifying the occurrence of an MCHE Replacement Scenario but certifying that all other aspects of Substantial Completion have been achieved. Owner shall respond to Contractor's written notice within ten (10) Days after Owner's receipt of such notice being provided in accordance with this Section 11.4B.1, and Owner's response will either verify that a MCHE Replacement Scenario has occurred (the "***MCHE Replacement Scenario Verification Notice***") or provide an explanation, in reasonable detail, as to why the MCHE Replacement Scenario has not occurred. If Owner provides an MCHE Replacement Scenario Verification Notice to Contractor, Contractor shall promptly develop a plan for Owner's approval (not to be unreasonably withheld) for ordering and installing a new MCHE to replace the Defective MCHE on a timely basis.

2. If Owner provides the MCHE Replacement Scenario Verification Notice, Contractor shall install, commission and test the new MCHE, and Contractor shall cause the LNG Production Rate MAC to be achieved, within twenty-five (25) months after the earlier of (a) order placement of the replacement MCHE and (b) the Guaranteed Substantial Completion Date (such 25-month time period being the "***Replacement Timeline***"). To the extent that Substantial Completion Delay Liquidated Damages would be assessed against Contractor during the Replacement Timeline in accordance with Section 13.2A, such Substantial Completion Delay Liquidated Damages shall be temporarily suspended and, in lieu thereof, the MCHE Replacement Delay Liquidated Damages shall apply as follows:

(i) for an LNG Production Rate equal to ninety-six percent (96%) of the LNG Production Rate MAC, liquidated damages of Forty Thousand U.S. Dollars (U.S.$40,000) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(ii) for an LNG Production Rate equal to one hundred percent (100%) of the LNG Production Rate MAC, liquidated damages of Zero U.S. Dollars (U.S.$0) per Day shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE); and

(iii) for an LNG Production Rate falling between 96% of the LNG Production Rate MAC and 100% of the LNG Production Rate MAC, liquidated damages shall be linearly proportional between the two points created by clauses (i) and (ii) above and such liquidated damages shall be assessed to Contractor for each Day until the earlier of (1) the end of the Replacement Timeline and (2) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE);

(collectively, the foregoing liquidated damages shall be considered the "***MCHE Replacement Delay Liquidated Damages***"). For purposes of clarity, the MCHE Replacement Delay Liquidated Damages are subject to the limitation on Contractor's liability for Delay Liquidated Damages set forth in Section 20.3.

3. If, during the Replacement Timeline, the LNG Production Rate increases from the rate determined by the LNG Production Rate Performance Test used to initially determine the MCHE Replacement Delay Liquidated Damages (as evidenced by a subsequent LNG Production Rate Performance Test or as mutually agreed by the Parties through actual measurements and/or calculations), the MCHE Replacement Delay Liquidated Damages shall be reduced in accordance with Section 11.4B.2 above.

4. MCHE Replacement Delay Liquidated Damages shall cease to be assessed against Contractor upon the earlier of (a) the end of the Replacement Timeline and (b) removal from service of the Defective MCHE (in preparation for the installation of the replacement MCHE). If, at such time, Substantial Completion has not been achieved, and the Guaranteed Substantial Completion Date has passed, Substantial Completion Delay Liquidated Damages (as applicable) shall be assessed against Contractor in accordance with Section 13.2 until Substantial Completion is achieved.

5. During the Replacement Timeline, Owner shall provide Contractor with access to the Work sufficient to perform its curative Work under the Agreement and replace the Defective MCHE with the replacement MCHE, so long as such access does not unreasonably interfere with operation of the Work, the Existing Facility, the Train 1 Expansion (after substantial completion of the Train 1 Expansion) or the Train 2 Expansion (after substantial completion of the Train 2 Expansion) and subject to any reasonable security or safety requirements of Owner (including those set forth in Section 3.25). In accordance with Section 3.25B, Contractor shall provide at least seven (7) Days' prior written notice to Owner if performance of the curative Work will interfere with operation of the Work or the Existing Facility, in which case Owner may place reasonable limitations on Contractor's access to the Work such that performance of the Work will minimize disruption to Owner's operations and loss of revenue resulting from performance of such Work.

6. If Owner verifies that a MCHE Replacement Scenario has occurred, Owner shall accompany its MCHE Replacement Scenario Verification Notice provided pursuant to Section 11.4B.1 with a written provisional acceptance of the Substantial Completion Certificate, modified in accordance with Section 11.4B.1 (such provisional acceptance being a "***Provisional Substantial Completion***"). Upon acceptance by Owner of Provisional Substantial Completion, (a) risk of loss shall transfer to Owner pursuant to Section 8.2B as if Substantial Completion had been achieved, (b) the Defect Correction Period, and Contractor's obligations to perform Corrective Work, shall commence as further described in the definition of "Defect Correction Period" and Article 12 and (c) Contractor's liability for damage or destruction of any Equipment of the Train 3 Expansion shall be set forth pursuant to Section 20.2 as if such Equipment had achieved Substantial Completion. In addition, upon providing Provisional Substantial Completion and notwithstanding Sections 11.8 and 11.9, Owner shall take over care, custody and control of the operations and maintenance of the Train 3 Expansion as if it had achieved Substantial Completion. Other than as set forth in this Section 11.4B.6, however, all of Contractor's and Owner's other rights and obligations under this Agreement shall remain in force as if Substantial Completion has not been achieved, including maintaining the amounts under the Letter of Credit as if the Train 3 Expansion had not yet achieved Substantial Completion. Further, the Defect Correction Period of any Work performed after Provisional Substantial Completion (including the replacement MCHE) shall commence upon achievement of Substantial Completion and shall continue for a period of eighteen (18) months after achievement of Substantial Completion (and the thirty (30) month period in Section 12.3B shall also run from Substantial Completion of the Train 3 Expansion).

7. Notwithstanding any acceptance by Owner of Provisional Substantial Completion in accordance with this Section 11.4B, in the event

that the replacement MCHE fails to achieve the LNG Production Rate MAC, Owner shall have the rights, and Contractor shall have the obligations, set forth in Section 11.4A (except that in such case the Minimum Acceptance Correction Period(s) will have been deemed to have already expired).

11.5 **Punchlist**.

A. ***Punchlist for RFSU.*** Prior to RFSU for each system or subsystem of Equipment or the Work, Owner and Contractor shall inspect such Work, and Contractor shall prepare a proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed Punchlist to Owner for its review and written approval, together with an estimate of the time necessary to complete or correct each Punchlist item. Contractor shall add to the proposed Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed Punchlist that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that such Work will achieve RFSU. Upon Contractor's completion or correction of any items necessary to achieve RFSU and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items for such system or subsystem of Equipment or the Work up to RLFC.

B. ***Punchlist for RLFC.*** After RFSU and prior to RLFC, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed updated, revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, revised Punchlist or otherwise that Owner, in the exercise of its reasonable judgment, believes must be completed or corrected so that the Train 3 Expansion will achieve RLFC. Upon Contractor's completion or correction of any items necessary to achieve RLFC, and Owner's written approval of Contractor's proposed Punchlist, as modified by any Owner additions, such Punchlist shall govern Contractor's performance of the Punchlist items up to Substantial Completion.

C. ***Punchlist for Substantial Completion***. After RLFC and prior to Substantial Completion, Owner and Contractor shall inspect the Work, and Contractor shall prepare an updated and revised proposed Punchlist of items identified as needing to be completed or corrected as a result of such inspection. Contractor shall promptly provide the proposed, updated and revised Punchlist to Owner for its review and written approval, together with an estimate of the time and cost necessary to complete or correct each Punchlist item. Contractor shall add to the proposed, updated and revised Punchlist any Punchlist items that are identified by Owner during its review, and Contractor shall

promptly initiate measures to complete or correct, as appropriate, any item on Contractor's proposed, updated and revised Punchlist or otherwise that Owner in the exercise of its reasonable judgment, believes must be completed or corrected to achieve Substantial Completion. Upon Contractor's completion or correction of any items necessary to achieve Substantial Completion and Owner's written approval of Contractor's proposed Punchlist (as modified by any Owner additions), including agreement on the reasonable cost to perform such Punchlist Work, such Punchlist shall govern Contractor's performance of the Punchlist items up to Final Completion; *provided, however*, Contractor shall add to the Punchlist any items of a Punchlist nature that are discovered by Owner or Contractor prior to Final Completion and further *provided that* the failure to include any items on the Punchlist shall not alter the responsibility of Contractor to complete all Work in accordance with the terms and provisions of the Agreement. Provided Owner gives Contractor access to the Facility as set forth below, all Work on the Punchlist shall be completed no later than sixty (60) Days after achievement of Substantial Completion (or such longer period of time as the Parties may mutually agree in writing), or Owner may, in addition to any other rights that it may have under this Agreement, at law or in equity, complete such Punchlist Work at the expense of Contractor. In the event Owner elects to complete such Punchlist Work, Contractor shall immediately pay Owner (directly, by offset, or by collection on the Letter of Credit, at Owner's sole discretion) all costs and expenses incurred in performing such Punchlist Work, not to exceed one hundred fifty percent (150%) of the agreed cost to perform such Punchlist Work. If Contractor performs any Punchlist Work, Owner shall provide Contractor with reasonable access to the Facility, and will de-energize and de-pressure the applicable Equipment sufficient for Contractor to perform its Punchlist activities, so long as such activities do not unreasonably interfere with the operation of the Facility and subject to any reasonable security and safety requirements of Owner.

11.6 **Notice and Requirements for Final Completion**. Final Completion shall be achieved when all requirements for Final Completion under this Agreement, including those set forth in the definition of Final Completion under Section 1.1, have been satisfied. Upon Final Completion, Contractor shall certify to Owner in the form of Attachment N ("***Final Completion Certificate***") that all of the requirements under this Agreement for Final Completion have occurred. Owner shall notify Contractor whether it accepts or rejects the Final Completion Certificate within ten (10) Days following Owner's receipt thereof. Acceptance of such certificate shall be evidenced by Owner's signature on such certificate, which shall be forwarded to Contractor with such notice. If Owner does not agree that Final Completion has occurred, then Owner shall state the basis for its rejection in reasonable detail in a written notice provided to Contractor. The Parties shall thereupon promptly and in good faith confer and make all reasonable efforts to resolve such issue. In the event such issue is not resolved within ten (10) Business Days of the delivery by Owner of its notice (or within such additional time as mutually agreed to by the Parties in writing), Owner and Contractor shall resolve the Dispute in accordance with the dispute resolution procedures provided for under Article 18, subject to the Parties' rights and obligations under Section 11.5C.

11.7 **Partial Occupancy**. Prior to Contractor's achieving Substantial Completion, Owner, upon providing thirty (30) Days' written notice to Contractor specifying the occupation

it intends to assume, may occupy all or any portion of the buildings for the Train 3 Expansion then capable of being safely occupied, *provided that*, such occupancy is authorized by the Governmental Instrumentality (to the extent such authorization is necessary) and Owner's insurance company or companies providing property insurance and builder's risk coverage have consented to such partial occupancy (to the extent such consent is necessary). Contractor shall assist Owner and take reasonable steps in obtaining consent of the insurance company or companies and applicable Government Instrumentalities. Immediately prior to such partial occupancy, Owner and Contractor shall jointly inspect the building to be occupied in order to determine and record the condition of the building and all personnel and environmental safety aspects of the building. Without limitation of the foregoing, Contractor shall be liable for any and all Delay Liquidated Damages for failing to achieve Substantial Completion as set forth in this Agreement, regardless of whether Owner is occupying a building (or portion thereof). For any building (or portion thereof) that Owner occupies pursuant to this Section 11.7, the Defect Correction Period for that building (or portion thereof) shall commence upon Owner's occupancy of such building (or portion thereof) and the risk of loss for such building (or portion thereof) shall transfer to Owner, notwithstanding Section 8.2A; *provided that*, the risk of loss shall not transfer, and the Defect Correction Period shall not commence, for any Equipment housed within such building or portion thereof (other than HVAC and lighting).

11.8 **Operations Activities**. Prior to Substantial Completion of the Train 3 Expansion, but after RLFC has been achieved, Contractor shall, to the extent reasonably possible, assist Owner in the operations and maintenance of the Train 3 Expansion in accordance with Owner's reasonable requests and all Permits, including with respect to the performance of activities in connection with (i) the berthing of LNG Tankers and loading of LNG; (ii) the receipt of natural gas feed; (iii) producing LNG; and (iv) such other activities as reasonably requested by Owner (each, an "***Operations Activity***" and, collectively, the "***Operations Activities***"). Contractor shall not have the obligation to follow Owner's requests for any Operations Activity if such Operations Activity adversely impacts Performance Testing or repairs to the Train 3 Expansion or impacts the ability to safely operate the Train 3 Expansion in accordance with the requirements of this Agreement. Contractor shall promptly provide notice to Owner informing Owner whether it can comply with Owner's requests and the reason if it cannot so comply. Contractor's performance of the Operations Activities shall not in any way release Contractor from any obligations or liabilities pursuant to this Agreement, including its obligations to meet Substantial Completion and Final Completion. Notwithstanding anything to the contrary in this Section, any restrictions concerning Operations Activity shall not apply to the scheduling and berthing of LNG Tankers or the loading or unloading of LNG to or from the LNG Tankers after any LNG Tankers have been called or scheduled

11.9 **LNG Tankers Calling on the Facility**. Notwithstanding Section 11.8, Contractor acknowledges that certain Operations Activities may involve the berthing, loading or unloading of LNG Tankers (other than the LNG Tankers calling on the Facility for the first load of the Train 3 Expansion or for Performance Testing), including Operations Activities in connection with the commercial operations of the Train 1 Expansion and the Train 2 Expansion. Owner shall give Contractor at least fourteen (14) Days prior written notice of the berthing, loading or unloading of such LNG Tankers. Any restrictions concerning Operation Activities shall not apply to the scheduling and berthing of such LNG Tankers or the loading of

LNG to such LNG Tankers. Owner and Contractor shall develop a written plan to avoid or minimize impacts, if any, to the Work which would be caused by the berthing, loading or unloading of such LNG Tankers.

11.10 **Long-Term Obligations**. No acceptance by Owner of any or all of the Work or any other obligations of Contractor under this Agreement, including acceptance of RFSU, RLFC, Substantial Completion or Final Completion, nor any payment made hereunder, whether an interim or final payment, shall in any way release Contractor or any surety of Contractor from any obligations or liability pursuant to this Agreement, including obligations with respect to unperformed obligations of this Agreement or for any Work that does not conform to the requirements of this Agreement, including Warranty obligations, any liabilities for which insurance is required or any other responsibility of Contractor, including the payment of any and all fines and penalties assessed as a result of Contractor's failure to comply with any Applicable Law. It is expressly understood and agreed by the Parties that nothing in this Article 11 shall in any way modify or alter Contractor's obligations under Article 12 and Article 13 hereof.

ARTICLE 12
WARRANTY AND CORRECTION OF WORK

12.1 **Warranty**.

A. ***General***. The warranties set forth in this Article 12 (collectively, the "***Warranty***" or "***Warranties***") are in addition to any of the Minimum Acceptance Criteria or Performance Guarantees set forth in this Agreement. Any Work, or component thereof, that is not in conformity with any Warranty is defective ("***Defective***") and contains a defect ("***Defect***").

B. ***Warranty of Work***. Contractor hereby warrants that the Work, including Equipment, and each component thereof shall be:

1. new, complete, and of suitable grade for the intended function and use in accordance with this Agreement;

2. in accordance with all of the requirements of this Agreement, including in accordance with GECP, Applicable Law and Applicable Codes and Standards;

3. free from encumbrances to title, as set forth in greater detail in Section 8.1;

4. free from defects in design, material and workmanship; *provided that*, tolerances in material and workmanship allowable by Applicable Law or Applicable Codes and Standards shall not be considered a defect unless the Scope of Work sets forth stricter tolerances; and

5. with respect to Equipment or any component of Equipment, unless otherwise specifically agreed in writing by Owner by Change Order,

composed and made of only proven technology, of a type in commercial operation at the Effective Date of this Agreement, with conditions substantially similar to those contained herein; *provided that* Owner's agreement for Contractor to use any Equipment not in compliance with this Section 12.1B.5 shall not relieve Contractor of any of its obligations under this Agreement.

C. ***Assignment and Enforcement of Subcontractor Warranties***. Contractor shall, without additional cost to Owner, use all commercially reasonable efforts to obtain warranties from Subcontractors and Sub-subcontractors that meet or exceed the requirements of this Agreement; *provided*, *however*, Contractor shall not in any way be relieved of its responsibilities and liability to Owner under this Agreement, regardless of whether such Subcontractor or Sub-subcontractor warranties meet the requirements of this Agreement, as Contractor shall be fully responsible and liable to Owner for its Warranty and Corrective Work obligations and liability under this Agreement for all Work. All such warranties shall be deemed to run to the benefit of Owner and Contractor. Such warranties, with duly executed instruments assigning the warranties to Owner, shall be enforceable by Owner upon Substantial Completion. All warranties provided by any Subcontractor or Sub-subcontractor shall be in such form as to permit direct enforcement by Contractor or Owner against any Subcontractor or Sub-subcontractor whose warranty is called for, and Contractor agrees that: (i) Contractor's Warranty, as provided under this Article 12 shall apply to all Work regardless of the provisions of any Subcontractor or Sub-subcontractor warranty, and such Subcontractor or Sub-subcontractor warranties shall be in addition to, and not a limitation of, such Contractor Warranty; (ii) Contractor is jointly and severally liable with such Subcontractor or Sub-subcontractor with respect to such Subcontractor or Sub-subcontractor warranty; and (iii) service of notice on Contractor that there has been a breach of a Subcontractor or Sub-subcontractor warranty shall be sufficient to invoke the terms of the instrument.

D. ***Exceptions to Warranty***. The Warranty excludes remedy, and Contractor shall have no liability to Owner, for damage or defect to the extent caused by: (i) improper repairs or alterations, misuse, neglect or accident by Owner; (ii) operation, maintenance or use of Work or any component thereof in a manner not in compliance with a material requirement of operation and maintenance manuals delivered by Contractor to Owner; (iii) normal wear and tear; or (iv) erosion or corrosion as a result of environmental elements not reasonably expected given the location of the Site.

12.2 **Correction of Work Prior to Substantial Completion**.

A. ***General Rights***. All Work shall be subject to inspection by Owner, Lender and either of their representatives at all times to determine whether the Work conforms to the requirements of this Agreement. Contractor shall furnish Owner, Lender and either of their representatives with access to all locations where Work is in progress, including locations not on the Site. If, in the judgment of Owner, any Work is Defective, Owner shall provide written notice to Contractor identifying and describing with reasonable specificity that portion of Work that Owner believes is Defective. Upon

receipt of such written notice, Contractor shall, at its own expense, promptly correct such Defective Work, whether by repair, replacement or otherwise. Subject to Contractor's right to pursue a Dispute under Article 18, the decision of Owner shall be conclusive as to whether the Work is conforming or Defective, and Contractor shall comply with the instructions of Owner in all such matters while pursuing any such dispute. If it is later determined that the Work was not Defective, then Owner shall reimburse Contractor for all costs incurred in connection with such repair or replacement and a Change Order shall be issued for such amount and shall address any impact the repair or replacement may have had on the Train 3 Project Schedule. If Contractor fails, after a reasonable period of time not to exceed one (1) week, to repair or replace any Defective Work, or to commence to repair or replace any Defective Work and thereafter continue to proceed diligently to complete the same, then Owner, after providing three (3) Days' notice to Contractor may repair or replace such Defective Work and the expense thereof shall be paid by Contractor; *provided, however*, if the Defective Work materially affects the operation or use of the Existing Facility, the Train 1 Expansion (after its has achieved RLFC under the Train 1 EPC Agreement), the Train 2 Expansion (after its has achieved RLFC under the Train 2 EPC Agreement) or the Train 3 Expansion (after it has achieved RLFC), or presents an imminent threat to the safety or health of any Person, then Contractor shall commence to repair or replace the Defective Work within twenty-four (24) hours after receipt of notice of such Defective Work, and thereafter continue to proceed diligently to complete the same, or Owner may repair or replace such Defective Work and the expense thereof shall be paid by Contractor.

B. ***Witness Points***. Contractor shall provide Owner a proposed list of witness points for each item of Equipment for Owner's review and prior written approval no later than thirty (30) Days' after placement of the applicable Subcontract for such item of Equipment, and Owner shall notify Contractor which of the witness points it wishes its personnel to witness. Contractor shall provide Owner with at least thirty (30) Days' prior written notice of the actual scheduled date of each of the tests Owner has indicated it wishes to witness. Contractor shall cooperate with Owner if Owner elects to witness any additional tests, and Contractor acknowledges that Owner shall have the right to witness all tests being performed in connection with the Work. Owner's right of inspection as set forth herein applies only to its witnessing of witness points for Work and shall not be construed to imply a limitation on Owner's right to inspect any portion on the Work (including Equipment) at any time in its sole discretion and in accordance with this Agreement.

C. ***No Obligation to Inspect***. Owner's or Lender's right to conduct inspections under Sections 12.2A and 12.2B shall not obligate Owner or Lender to do so. Neither the exercise of Owner or Lender of any such right, nor any failure on the part of Owner or Lender to discover or reject Defective Work shall be construed to imply an acceptance of such Defective Work or a waiver of such Defect.

D. ***Cost of Disassembling***. 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 Owner if such Work is found to

conform with the requirements of this Agreement and by Contractor if such Work is found to be Defective.

12.3 **Correction of Work After Substantial Completion**. If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work, whether by repair, replacement or otherwise, including any and all obligations in connection with such repair, replacement or otherwise, such as in and out costs, storage, labor, Taxes, transportation and expediting costs and any other costs necessary to fully correct the Work (collectively, the "***Corrective Work***"). Owner shall provide Contractor with access to the Facility, and will de-energize and de-pressure the applicable Equipment, sufficient for Contractor to perform its Corrective Work, so long as such activities do not unreasonably interfere with the construction or operation of the Facility and subject to any reasonable security or safety requirements of Owner. In the event Contractor utilizes spare parts owned by Owner in the course of performing the Corrective Work, Contractor shall supply Owner free of charge with new spare parts equivalent in quality and quantity to all such spare parts used by Contractor as soon as possible following the utilization of such spare parts. Unless otherwise allowed by Owner in writing, Contractor will maintain at least one (1) Contractor's representative at the Site during the Defect Correction Period to assist in coordinating the resolution of any Defective Work.

A. ***Owner Right to Correct or Complete Defective Work***. If Contractor fails to commence the Corrective Work (including notification to Owner of its implementation plan to perform the Corrective Work) within a reasonable period of time not to exceed five (5) Days after receipt of Owner's written notice to Contractor identifying and describing with reasonable specificity that portion of Work that is Defective, or does not complete such Corrective Work on an expedited basis, then Owner, by written notice to Contractor, may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform such Corrective Work, and Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses; *provided, however*, if any Defective Work materially affects the construction, operation or use of any of the Work or the Facility or presents an imminent threat to the safety or health of any Person and Owner knows of such Defective Work, Owner may (in addition to any other remedies that it has under this Agreement, at law or in equity) perform the Corrective Work without giving prior written notice to Contractor, and, in such event, Contractor shall be liable to Owner for all reasonable costs and expenses arising out of or relating to such Corrective Work and shall pay Owner (directly, by offset or by collection on the Letter of Credit, at Owner's sole discretion) an amount equal to such costs and expenses.

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.

C. ***Standards for Corrective Work***. All Corrective Work shall be performed subject to the same terms and conditions under this Agreement as the original Work is required to be performed. Any change to parts or Equipment that would alter the requirements of this Agreement may be made only with prior written approval of Owner.

D. ***No Limitation***. Nothing contained in this Section 12.3 shall be construed to establish a period of limitation with respect to other obligations which Contractor might have under the Agreement. Establishment of the Defect Correction Period relates only to the specific obligation of Contractor to perform Corrective Work, and has no relationship to the time within which the obligation to comply with this Agreement may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than specifically to perform Corrective Work.

12.4 **Assignability of Warranties**. The Warranties made in this Agreement shall be for the benefit of Owner and its successors and assigns and the respective successors and assigns of any of them, and are fully transferable and assignable.

12.5 **Waiver of Implied Warranties**. EXCEPT FOR ANY EXPRESS WARRANTIES UNDER THIS AGREEMENT (INCLUDING THE WARRANTIES), THE PARTIES HEREBY DISCLAIM ANY AND ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY IMPLIED WARRANTY OF HABITABILITY AND IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 13
GUARANTEE OF TIMELY COMPLETION AND DELAY LIQUIDATED DAMAGES

13.1 **Guarantee of Timely Completion**. Contractor specifically acknowledges that time is of the essence as to the Guaranteed Substantial Completion Date, Guaranteed Record As-Built Delivery Date and the dates for when Contractor is required to be ready under this Agreement to load the LNG Tanker for RLFC.

13.2 **Delay Liquidated Damages**.

A. ***Delay in Substantial Completion***. If Substantial Completion occurs after the Guaranteed Substantial Completion Date, Contractor shall pay to Owner the amounts listed in Attachment E per Day for each Day, or portion thereof, of delay until Substantial Completion occurs (the "***Substantial Completion Delay Liquidated Damages***").

B. ***Delay in Achieving Record As-Built Delivery Requirement***. If the Record As-Built Delivery Requirement occurs after the Guaranteed Record As-Built Delivery Date, Contractor shall pay to Owner Ten Thousand Dollars per Day for each Day, or portion thereof, of delay until the Record As-Built Delivery Requirement is achieved (the "***Record As-built Delivery Requirement Delay Liquidated Damages***").

C. ***RLFC Delay Liquidated Damages***. RLFC Delay Liquidated Damages shall be assessed in accordance with Section 11.1D and paid in accordance with Section 13.2E.

D. ***MCHE Replacement Delay Liquidated Damages***. MCHE Replacement Delay Liquidated Damages shall be assessed in accordance with Section 11.4B.2 and paid in accordance with Section 13.2E.

E. ***Payment of Delay Liquidated Damages***. With respect to any Delay Liquidated Damages that accrue, Owner, at its sole discretion, may either (i) invoice Contractor for such owed Delay Liquidated Damages, and within thirty (30) Days of Contractor's receipt of such invoice, Contractor shall pay Owner Delay Liquidated Damages, (ii) withhold from Contractor amounts that are otherwise due and payable to Contractor in the amount of such Delay Liquidated Damages, or (iii) collect on the Letter of Credit in the amount of such Delay Liquidated Damages. In addition, with respect to the achievement of Substantial Completion, Contractor shall pay Owner all Delay Liquidated Damages, if any, owed under this Agreement for Substantial Completion as a condition precedent to achieving Substantial Completion.

ARTICLE 14
CONTRACTOR'S REPRESENTATIONS

Contractor, CB&I, Zachry and Chiyoda represent and warrant, as applicable, that:

14.1 **Corporate Standing**. Contractor is a joint venture duly organized, validly existing and in good standing under the laws of the State of Texas; CB&I is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas; Zachry is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; Chiyoda is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington and each is authorized and qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects, taxes or business.

14.2 **No Violation of Law; Litigation**. Each is not in violation of any Applicable Law or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best of its knowledge) threatened against Contractor, CB&I, Zachry or Chiyoda that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Contractor, CB&I, Zachry or Chiyoda, or the ability of any of them to perform under this Agreement.

14.3 **Licenses**. Contractor is either the holder of all Permits, or will acquire all Permits required to permit it to operate or conduct its business as required by Section 3.12.

14.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, the charter or by-laws of Contractor, CB&I, Zachry, Chiyoda, or any Applicable Law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which Contractor, CB&I, Zachry, or Chiyoda, is a party or by which any of them are bound or to which any of them are, or any of their property or assets is, subject, or constitute a default under any such agreement or instrument.

14.5 **Corporate Action**. Each has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of each; and this Agreement has been duly and validly executed and delivered by each and constitutes a legal, valid and binding obligation of Contractor, CB&I, Zachry, and Chiyoda, enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

14.6 **Financial Solvency**. Each is financially solvent, able to pay all debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations hereunder. Each Guarantor, guaranteeing the obligations of Contractor pursuant to Section 21.16 of this Agreement, is financially solvent, able to pay all debts as they mature, and possesses sufficient working capital to perform the guarantee required by Section 21.16.

ARTICLE 15
OWNER'S REPRESENTATIONS

Owner represents and warrants that:

15.1 **Corporate Standing**. It is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware, is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would have a material adverse effect on its financial condition, operations, prospects or business.

15.2 **No Violation of Law; Litigation**. It is not in violation of any Applicable Law, or judgment entered by any Governmental Instrumentality, which violations, individually or in the aggregate, would affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Instrumentality, now pending or (to the best knowledge of Owner) threatened against Owner that, if adversely determined, could reasonably be expected to have a material adverse effect on the financial condition, operations, prospects or business, as a whole, of Owner, or its ability to perform under this Agreement.

15.3 **Licenses**. It is the holder of (or is a beneficial user of) or will take the necessary action to obtain, or cause to be obtained, all Permits under Attachment Q.

15.4 **No Breach**. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, or require any consent under, the operating agreement or by-laws of Owner, any Applicable Law, any order, writ, injunction or decree of any court, or any agreement or instrument to which Owner is a party or by which it is bound or to which it or any of its property or assets is subject, or constitute a default under any such agreement or instrument.

15.5 **Corporate Action**. It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by Owner of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by Owner and constitutes a legal, valid and binding obligation of Owner enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally.

15.6 **Financing and Payment**. Owner has obtained financing, or will obtain financing prior to or upon issuance of NTP, from one or more Lenders to enable it to pay all debts as they mature and perform its payment obligations under this Agreement.

ARTICLE 16
DEFAULT, TERMINATION AND SUSPENSION

16.1 **Default by Contractor**.

A. ***Owner Rights Upon Contractor Default***. If Contractor shall at any time (i) repeatedly fail to prosecute the Work in a diligent, efficient, workmanlike, skillful and safe manner; (ii) fail to commence the Work in accordance with the provisions of this Agreement; (iii) effect an Abandonment of the Train 3 Project; (iv) repudiate any of its material obligations under the Agreement; (v) repeatedly fail to use an adequate amount or quality of personnel or equipment to perform and complete the Train 3 Project without delay; (vi) be in Default pursuant to Section 5.4F, 11.4A or 21.7; (vii) fail to maintain insurance required under this Agreement; (viii) fail to provide or maintain the Letters of Credit or the Parent Guarantee in accordance with Section 9.2 or Section 21.16, respectively; (ix) fail to discharge or bond liens filed by any Subcontractor or Sub-subcontractor as required under this Agreement; (x) cause, by any action or omission, any material stoppage or delay of or interference with the operations of the Existing Facility, Train 1 Expansion (after substantial completion under the Train 1 EPC Agreement) or the Train 2 Expansion (after substantial completion under the Train 2 EPC Agreement), except as allowed under Section 3.25 for each; (xi) fail to make payment to Subcontractors for labor or materials owed in accordance with the respective Subcontracts; (xii) disregard Applicable Law or Applicable Codes and Standards; (xiii) fail to comply with any material provision of this Agreement; or (xiv) itself or the Guarantor becomes insolvent, has a receiver appointed, makes a general assignment or filing for the benefit of its creditors or files for bankruptcy protection (each of the foregoing being a "***Default***") then (following Owner's written notice to Contractor specifying the general nature of the Default, unless Contractor cures such

condition within the applicable Cure Period, if any, set forth below) Owner, at its sole option and without prejudice to any other rights that it has under this Agreement, but remaining subject to the limitations of liability set forth in Article 20, may (1) take such steps as are necessary to overcome the Default condition, in which case Contractor shall be liable to Owner for any and all reasonable, additional costs, damages, losses and expenses (including all attorneys' fees, consultant fees and litigation expenses) incurred by Owner in connection therewith, (2) terminate for Default Contractor's performance of all or any part of the Work, or (3) seek specific performance or interlocutory mandatory injunctive relief requiring performance of Contractor's obligations, it being agreed by Contractor that such relief may be necessary to avoid irreparable harm to Owner. Notwithstanding the foregoing, Owner shall not be entitled to terminate Contractor as a result of a delay in achieving Substantial Completion during the first six (6) months after the Guaranteed Substantial Completion Date; *provided that* Owner shall be entitled to terminate Contractor prior to the expiration of such six (6) month period if (i) Contractor is not paying to Owner when owed Delay Liquidated Damages during such six (6) month period or Contractor is not diligently performing the Work and (ii) Owner is otherwise entitled to terminate Contractor under this Section 16.1A. In addition, Owner shall not be entitled to terminate Contractor for anticipatory delay in achieving Substantial Completion unless, based on the current progress of the Work, Contractor is projected to achieve Substantial Completion six (6) months or more beyond the Guaranteed Substantial Completion Date, *provided that* Owner shall be entitled to terminate Contractor at any time if Contractor is not diligently performing the Work and Owner is otherwise entitled to terminate Contractor under this Section 16.1A.

1. Contractor shall have the following time periods to cure Defaults identified by Owner pursuant to Section 16.1A (as applicable, the "***Cure Period***"): (A) for items (i), (ii), (iii), (iv), (v), (x), and (xiii) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default, *provided that*, if, due to the nature of the Default, it cannot be cured by exercising all practicable diligence within such 30-Day period, Contractor shall cure the Default as soon as reasonably practicable but, in any event, not more than sixty (60) Days after receipt of written notice from Owner of the Default (unless otherwise expressly agreed upon by the Parties in writing); (B) for items (vii), (viii), (ix), (xi) and (xii) in Section 16.1A, Contractor shall cure the Default within fourteen (14) Days after receipt of written notice from Owner of such Default; (C) for a Default pursuant to Section 5.5H via item (vi) in Section 16.1A, Contractor shall cure the Default within thirty (30) Days after receipt of written notice from Owner of such Default; (D) for a Default pursuant to item (xiv) in Section 16.1A or pursuant to Section 11.4A via item (vi) in Section 16.1A, no Cure Period shall be provided and Owner's right to terminate shall be exercisable immediately upon Contractor being provided written notice of Default; and (E) for a Default pursuant to Section 21.7 via item (vi) in Section 16.1A, Contractor shall cure the Default within five (5) Business Days after receipt of written notice from Owner of such Default.

B. ***Additional Rights of Owner Upon Termination***. In the event that Owner terminates this Agreement for Default in accordance with Section 16.1A, then Owner

may, at its sole option, (i) enter onto the Site and, for the purpose of completing the Work, take possession of all equipment, tools, supplies, scaffolding and machinery rented by Contractor and all Equipment, Books and Records and Work Product, (ii) take assignment of any or all of the Subcontracts, and/or (iii) complete the Work either itself or through others. If the unpaid balance of the Contract Price shall exceed all damages, costs, losses and expenses incurred by Owner (including all attorneys' fees, consultant fees and litigation expenses, costs to complete the Work, Delay Liquidated Damages and any and all damages for failure of performance and cost of financing or interest on such expense from the date such expense was incurred by Owner at the rate specified in Section 7.7), then such excess shall be paid by Owner to Contractor, but such amount shall not be paid until after Final Completion has been achieved. If such amount incurred by Owner shall exceed the unpaid balance of the Contract Price, then, at Owner's sole option, Contractor shall pay Owner the difference within thirty (30) Days after written notice of the demand, or Owner shall have the right and authority to offset or collect on the Letter of Credit in the amount of such difference. Subject to Article 20, Contractor's liability under this Section 16.1B is in addition to any other liability provided for under this Agreement and Owner shall have the right and authority to set off against and deduct from any such excess due Contractor by Owner any other liability of Contractor to Owner under this Agreement. Owner agrees to act reasonably to mitigate any costs it might incur in connection with any termination for Default, including the obligations to act reasonably promptly in replacing Contractor with a substitute contractor. In the event of a termination for Default, the Parties agree that Owner shall be entitled to all damages, losses and reasonable costs and expenses incurred by Owner arising out of or resulting from such Default, including any and all Delay Liquidated Damages; *provided that* Contractor's maximum liability under this Article 16 is limited by the limitations of liability set forth in Article 20, including, for Delay Liquidated Damages, as provided by Section 20.3A. If Contractor is terminated for Default pursuant to Section 16.1, the Parties agree that, for purposes of this Section 16.1B, and with respect to Substantial Completion that was not achieved by Contractor prior to such termination, Delay Liquidated Damages owed by Contractor to Owner shall be based on the date that the substitute contractor achieved Substantial Completion or, using GECP, should have achieved Substantial Completion under the circumstances.

C. ***Obligations Upon Termination***. Upon termination for Default, Contractor shall (i) immediately discontinue Work on the date and to the extent specified in the notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) inventory, maintain and turn over to Owner all equipment, machinery, materials, tools, supplies and scaffolding rented by Contractor or provided by Owner for performance of the terminated Work, (iv) promptly make every reasonable effort to procure assignment or cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued; (v) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress so as to mitigate damages; (vi) comply with other reasonable requests from Owner regarding the terminated Work; (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as

may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and any Applicable Codes and Standards; and (viii) perform all other obligations under Section 16.1B.

16.2 **Termination for Convenience by Owner**. Owner shall have the right to terminate for convenience Contractor's performance of all or any part of the Work by providing Contractor with a written notice of termination, to be effective upon receipt by Contractor. Upon termination for convenience, Contractor shall (i) immediately discontinue the Work on the date and to the extent specified in such notice, (ii) place no further orders for Subcontracts, Equipment, or any other items or services except as may be necessary for completion of such portion of the Work as is not discontinued, (iii) promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all Subcontracts and rental agreements to the extent they relate to the performance of the Work that is discontinued unless Owner elects to take assignment of any such Subcontracts, (iv) assist Owner in the maintenance, protection, and disposition of Work in progress, (v) cooperate with Owner for the efficient transition of the Work, (vi) cooperate with Owner in the transfer of Work Product, including Drawings and Specifications, Permits, licenses and any other items or information and disposition of Work in progress and (vii) thereafter execute only that portion of the Work not terminated (if any) and that portion of the Work as may be necessary to preserve and protect Work already in progress and to protect Equipment at the Site or in transit thereto, and to comply with any Applicable Law and Applicable Codes and Standards and Owner may, at its sole option, take assignment of any or all of the Subcontracts. Contractor shall be paid (1) the reasonable value of the Work performed (the basis of payment being based on the terms of this Agreement) prior to termination, less that portion of the Contract Price previously paid to Contractor (including down payments, if any, made under this Agreement), plus (2) reasonable close-out costs (plus profit and general and administrative expenses for such costs) submitted in accordance with this Section, plus (3) reasonable costs (plus profit and general and administrative expenses for such costs) for demobilizing Contractor, Subcontractor and Sub-subcontractor personnel, construction equipment and temporary facilities from the Site to their point of origin, but in no event shall Contractor be entitled to receive any amount for unabsorbed overhead, contingency, risk or anticipatory profit. Contractor shall submit all reasonable close-out and demobilization costs to Owner for verification and audit within one hundred twenty (120) Days following the effective date of termination. If no Work has been performed by Contractor at the time of termination, Contractor shall be paid the sum of One Hundred U.S. Dollars (U.S.$100) for its undertaking to perform. With respect to payments regarding Payment Milestones, the Parties recognize and agree that the amount and timing of the Payment Milestone payments have been determined in part to provide a mutually agreeable cash flow to Contractor and does not necessarily represent the value of the Work performed under the Payment Milestones. As such, in the event of a termination for convenience, Contractor shall not be entitled to the full compensation for such Payment Milestones performed but instead shall be entitled to the value of the Work actually performed.

16.3 **Suspension of Work**. Owner may, for any reason, at any time and from time to time, by written unilateral or mutual Change Order, suspend the carrying out the Work or any part thereof, whereupon Contractor shall suspend the carrying out of such suspended Work for such time or times and in such manner as Owner may require and shall take reasonable steps to

minimize any costs associated with such suspension. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as Owner may reasonably require. Unless otherwise instructed by Owner, Contractor shall during any such suspension maintain its staff and labor on or near the Expansion Facility Site and otherwise be ready to proceed expeditiously with the Work upon receipt of Owner's further instructions. Except where such suspension ordered by Owner is the result of or due to the fault or negligence of Contractor or any Subcontractor or Sub-subcontractor, Contractor shall be entitled to the reasonable costs (including actual, but not unabsorbed, overhead, contingency, risk and reasonable profit) of such suspension, including demobilization and remobilization costs, if necessary, along with appropriate supporting documentation to evidence such costs, and a time extension to the Train 3 Project Schedule if and to the extent permitted under Section 6.8. Upon receipt of notice to resume suspended Work, Contractor shall promptly resume performance of the Work to the extent required in the notice. In no event shall Contractor be entitled to any additional profits or damages due to such suspension.

16.4 **Suspension by Contractor**. Notwithstanding anything to the contrary in this Agreement, Contractor shall have the responsibility at all times to prosecute the Work diligently and shall not suspend, stop or cease performance hereunder or permit the prosecution of the Work to be delayed; *provided*, *however*, subject to Owner's right to withhold or offset payment to Contractor under this Agreement, if Owner fails to pay undisputed amounts due and owing to Contractor and Owner has failed to cure such failure within thirty (30) Days following Contractor's written notice to Owner to cure such failure, Contractor may suspend performance of the Work until Contractor receives such undisputed amounts. Contractor shall be entitled to a Change Order for any costs incurred by Contractor resulting from such suspension and shall be entitled to an extension in the Train 3 Project Schedule to the extent permitted under Section 6.8.

16.5 **Termination by Contractor**. Contractor may terminate this Agreement if, continuing at the time of such termination, Contractor has stopped the performance of all Work under this Agreement pursuant to Section 16.4 for thirty (30) Days, and after the expiration of such thirty (30) Day period, Contractor gives Owner written notice specifying the nature of the default and its intent to terminate the Agreement, and Owner fails to cure such default within thirty (30) Days after receipt of Contractor's notice. In the event of any such termination under this Section 16.5, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 in the event of an Owner termination for convenience. This Section 16.5 and Sections 16.6 and 21.7 set forth Contractor's only rights to terminate this Agreement.

16.6 **Termination Due to Extended Force Majeure**. Contractor may terminate this Agreement by providing written notice to Owner of its intent to terminate the Agreement in the event a single event of Force Majeure prevents performance of all of the Work for a period of time in excess of ninety (90) Days, unless prior to the expiration of such ninety (90) Day period Owner agrees to pay Contractor's reasonable standby costs incurred by Contractor after the expiration of such ninety (90) Days, which shall be documented by Change Order. If Owner agrees to pay such reasonable standby costs and commences paying such reasonable standby costs, then Contractor shall not be entitled to terminate the Agreement until the expiration of a total of three hundred sixty-five (365) Days. In the event of any termination

under this Section 16.6, Contractor shall have the rights (and Owner shall make the payments) provided for in Section 16.2 regarding a termination for convenience.

ARTICLE 17
INDEMNITIES

17.1 **General Indemnification**. IN ADDITION TO ITS INDEMNIFICATION, DEFENSE AND HOLD HARMLESS OBLIGATIONS CONTAINED ELSEWHERE IN THIS AGREEMENT, CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND OWNER INDEMNIFIED PARTIES FROM ANY AND ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL FINES AND PENALTIES AS WELL AS ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY OF THE FOLLOWING:

A. ACTUAL OR ALLEGED FAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT;

B. SUBJECT TO SECTION 17.4, ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS THAT MAY BE ATTRIBUTABLE TO CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B;

C. ACTUAL OR ALLEGED CONTAMINATION, SPILL, RELEASE, DISCHARGE OR POLLUTION ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDOUS MATERIALS BROUGHT ONTO THE SITE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, OR ANY INCREASED CONTAMINATION OR POLLUTION CAUSED BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR DUE TO THE FAILURE TO STOP WORK UPON DISCOVERING ANY PRE-EXISTING HAZARDOUS MATERIALS WHICH CONTRACTOR OR SUCH SUBCONTRACTOR OR SUB-SUBCONTRACTOR KNOWS OR REASONABLY SUSPECTS TO BE HAZARDOUS MATERIAL;

D. CLAIMS BY ANY GOVERNMENTAL INSTRUMENTALITY AS A RESULT OF A FAILURE BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR TO PAY TAXES FOR WHICH IT IS RESPONSIBLE UNDER THIS AGREEMENT;

E. FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT; OR

F. BODILY INJURY TO OR DEATH OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), OR DAMAGE TO OR DESTRUCTION OF PROPERTY OF ANY PERSON (OTHER THAN EMPLOYEES, DIRECTORS AND OFFICERS OF ANY CONTRACTOR INDEMNIFIED PARTY OR OWNER INDEMNIFIED PARTY), IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO THE WORK, TO THE EXTENT CAUSED BY THE

NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE.

17.2 **Injuries to Contractor's Employees and Damage to Contractor's Property**. NOTWITHSTANDING THE PROVISIONS OF SECTION 17.1F, CONTRACTOR SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS OR DIRECTORS OF ANY CONTRACTOR INDEMNIFIED PARTY OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF CONTRACTOR OR SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY EMPLOYEE, OFFICER OR DIRECTOR OF ANY OF THEM, REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF AN OWNER INDEMNIFIED PARTY.

17.3 **Injuries to Owner's Employees and Damage to Owner's Property**. OWNER SHALL WAIVE, RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO (I) INJURY TO OR DEATH OF EMPLOYEES, OFFICERS, DIRECTORS OF ANY OWNER INDEMNIFIED PARTY OR (II) DAMAGE TO OR DESTRUCTION OF PROPERTY OF OWNER INDEMNIFIED PARTIES (EXCLUDING THE WORK, THE EXPANSION FACILITY AND THE EXISTING FACILITY), REGARDLESS OF THE CAUSE OF SUCH DAMAGES, LOSSES, COSTS AND EXPENSES, INCLUDING THE SOLE OR JOINT NEGLIGENCE OF ANY CONTRACTOR INDEMNIFIED PARTY.

17.4 **Owner's Patent and Copyright Indemnification**. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR INDEMNIFIED PARTIES FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM OR RELATED TO ANY ACTUAL OR ASSERTED VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS ATTRIBUTABLE TO PROCESSES PRACTICED BY OWNER IN THE OPERATION OF THE EXISTING FACILITY, UNLESS SUCH PROCESS IS UNDERTAKEN AS REQUIRED IN WRITING BY CONTRACTOR (OR REQUIRED UNDER THE SCOPE OF WORK) TO FACILITATE THE PERFORMANCE OF THE WORK OR THE OPERATION OF THE EXPANSION FACILITY.

17.5 **Contractor's Patent and Copyright Indemnification**. IN THE EVENT THAT ANY SUIT, CLAIM, TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION IS GRANTED IN CONNECTION WITH SECTION 17.1B, CONTRACTOR SHALL, IN ADDITION TO ITS OBLIGATION UNDER SECTION 17.1B, 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, CONTRACTOR SHALL PROMPTLY MAKE EVERY REASONABLE EFFORT TO SECURE FOR OWNER A LICENSE, AT NO COST TO OWNER, AUTHORIZING CONTINUED USE OF THE INFRINGING WORK. IF CONTRACTOR IS UNABLE TO SECURE SUCH A LICENSE WITHIN A REASONABLE TIME, CONTRACTOR 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. OWNER SHALL RENDER SUCH ASSISTANCE AS CONTRACTOR MAY REASONABLY REQUIRE IN THE DEFENSE OF ANY CLAIM OF INFRINGEMENT PURSUANT TO SECTION 17.1B.

17.6 **Lien Indemnification**. SHOULD ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR OR ANY OTHER PERSON ACTING THROUGH OR UNDER CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR FILE A LIEN OR OTHER ENCUMBRANCE AGAINST ALL OR ANY PORTION OF THE WORK, THE SITE OR THE FACILITY, CONTRACTOR SHALL, AT ITS SOLE COST AND EXPENSE, REMOVE AND DISCHARGE, BY PAYMENT, BOND OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE WITHIN TWENTY (20) DAYS AFTER THE FILING OF SUCH LIEN OR ENCUMBRANCE, *PROVIDED THAT*, OWNER HAS MADE PAYMENT TO CONTRACTOR OF ALL UNDISPUTED AMOUNTS OWED TO CONTRACTOR IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IF CONTRACTOR FAILS TO REMOVE AND DISCHARGE ANY SUCH LIEN OR ENCUMBRANCE WITHIN SUCH TWENTY (20) DAY PERIOD, THEN OWNER MAY, IN ITS SOLE DISCRETION AND IN ADDITION TO ANY OTHER RIGHTS THAT IT HAS UNDER THIS AGREEMENT, AT LAW OR EQUITY, TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:

A. REMOVE AND DISCHARGE SUCH LIEN AND ENCUMBRANCE USING WHATEVER MEANS THAT OWNER, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE, INCLUDING THE PAYMENT OF SETTLEMENT AMOUNTS THAT IT DETERMINES IN ITS SOLE DISCRETION AS BEING NECESSARY TO DISCHARGE SUCH LIEN OR ENCUMBRANCE. IN SUCH CIRCUMSTANCE, CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES, AND SETTLEMENT PAYMENTS) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH REMOVAL AND DISCHARGE. ALL SUCH DAMAGES, COSTS, LOSSES AND EXPENSES SHALL BE PAID BY CONTRACTOR NO LATER THAN THIRTY (30) DAYS AFTER RECEIPT OF EACH INVOICE FROM OWNER;

B. SEEK AND OBTAIN AN ORDER GRANTING SPECIFIC PERFORMANCE FROM A COURT OF COMPETENT JURISDICTION, REQUIRING THAT CONTRACTOR IMMEDIATELY DISCHARGE AND REMOVE, BY BOND, PAYMENT OR OTHERWISE, SUCH LIEN OR ENCUMBRANCE. THE PARTIES EXPRESSLY AGREE THAT OWNER SHALL BE ENTITLED TO SUCH SPECIFIC PERFORMANCE AND THAT CONTRACTOR SHALL BE LIABLE TO OWNER FOR ALL DAMAGES, COSTS, LOSSES AND EXPENSES (INCLUDING ALL ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION EXPENSES) INCURRED BY OWNER ARISING OUT OF OR RELATING TO SUCH SPECIFIC PERFORMANCE ACTION. CONTRACTOR AGREES THAT THE FAILURE TO DISCHARGE AND REMOVE ANY SUCH LIEN OR ENCUMBRANCE WILL GIVE RISE TO IRREPARABLE INJURY TO OWNER AND OWNER'S AFFILIATES, AND FURTHER, THAT OWNER AND SUCH OWNER AFFILIATES WILL NOT BE ADEQUATELY COMPENSATED BY DAMAGES; OR

C. CONDUCT THE DEFENSE OF ANY ACTION IN RESPECT OF (AND ANY COUNTERCLAIMS RELATED TO) SUCH LIENS OR ENCUMBRANCES AS SET FORTH IN SECTION 17.7, WITHOUT REGARD TO CONTRACTOR'S RIGHTS UNDER SUCH SECTION.

17.7 **Legal Defense**. 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 AGREEMENT, 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 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 SECTION 17.7, 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 ATTORNEYS' FEES, CONSULTANT FEES AND LITIGATION 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 INTEREST ON SAME FROM THE DATE ANY SUCH COST AND EXPENSE WAS PAID BY SUCH INDEMNIFIED PARTY UNTIL REIMBURSED BY THE INDEMNIFYING PARTY AT THE INTEREST RATE SET FORTH IN THIS AGREEMENT.

17.8 **Enforceability**.

A. EXCEPT AS OTHERWISE SET FORTH ABOVE, THE INDEMNITY, DEFENSE AND HOLD HARMLESS OBLIGATIONS FOR BODILY INJURY OR DEATH OR PROPERTY DAMAGE UNDER THIS AGREEMENT 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 17 SHALL BE DETERMINED IN ACCORDANCE WITH PRINCIPLES OF COMPARATIVE NEGLIGENCE.

B. OWNER AND CONTRACTOR AGREE THAT THE TEXAS OILFIELD ANTI-INDEMNIFICATION ACT, TEX. CIV. PRAC. & REM. CODE ANN. §§ 127.001-005, TEX. CIV. PRAC. & REM. CODE ANN. §§ 130.001-005 AND TEX. INS. CODE ANN. CHAPTER 151 ARE 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, EACH PARTY HEREBY AGREES TO 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 CONTRACTOR AGREES THAT THE CONTRACT PRICE COMPENSATES CONTRACTOR FOR THE COST OF PREMIUMS FOR THE INSURANCE PROVIDED BY IT UNDER THE AGREEMENT. THE PARTIES AGREE THAT EACH PARTY'S AGREEMENT TO SUPPORT THEIR INDEMNIFICATION OBLIGATIONS BY INSURANCE SHALL IN NO RESPECT IMPAIR THEIR INDEMNIFICATION OBLIGATIONS.

C. 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. EACH PARTY ACKNOWLEDGES SPECIFIC PAYMENT OF TEN AND NO/100 U.S. DOLLARS (U.S. $10.00) AS LEGAL CONSIDERATION FOR THE INDEMNITY OBLIGATIONS AS MAY BE PROVIDED IN THIS AGREEMENT.

ARTICLE 18
DISPUTE RESOLUTION

18.1 **Negotiation**. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability or breach of this Agreement) ("***Dispute***") cannot be resolved informally within fifteen (15) Days after the Dispute arises, or such longer period of time as mutually agreed to in writing by the Parties, either Party may give written notice to the other Party requesting that a representative of Owner's senior management and Contractor's senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at a mutually agreeable time and place within thirty (30) Days after receipt by the non-notifying Party of such notice, or such longer period of time as mutually agreed to in writing by the Parties, and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Dispute. In no event shall this Section 18.1 be construed to limit either Party's right to take any action under this Agreement, including Owner's rights under Section 16.1.

18.2 **Mediation**. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) Days of receipt of the notice set forth in Section 18.1, then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other Party requesting such mediation, which shall be held in Houston, Texas, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) Days after the date written notice of

mediation is received, either Party may petition the American Arbitration Association ("***AAA***") for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the AAA's Construction Industry Arbitration Rules and Mediation Procedures then in effect. The mediation shall be concluded within forty-five (45) Days after receipt of the mediation request, unless the Parties agree otherwise. The Parties and the mediator shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (i) views expressed or suggestions made by either Party with respect to a possible settlement of the Dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that a Party had or had not indicated a willingness to accept a proposal for settlement made by the mediator. With respect to expenses related to mediation, the expenses of witnesses for either Party shall be paid by the Party producing such witnesses; all other expenses of mediation, including required traveling, fees and other expenses of the mediator, shall be borne equally by the Parties unless otherwise agreed by the Parties. Mediation is an absolute condition precedent to litigation, except (i) to the extent necessary to avoid statute of limitation issues or to preserve bond rights, (ii) if another Dispute is already subject to litigation pursuant to this Article or (iii) if a dispute under the Train 1 EPC Agreement or Train 2 EPC Agreement is already subject to litigation pursuant to its terms and the Dispute hereunder is related to such dispute.

18.3 **Litigation**. In the event that the Dispute is not resolved by mediation within forty-five (45) Days (or such other time agreed upon in writing by the Parties pursuant to Section 18.2) after receipt of the mediation request given in accordance with 18.2, then the Parties agree that such Dispute shall be decided by litigation pursuant to this Section 18.3. Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv) consents to the service of process by mail in accordance with the notice provisions of this Agreement, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdiction. Nothing herein shall affect the right of any Party to serve legal process in any manner permitted by Applicable Law or affect its right to bring any action that does not arise out of or relate to this Agreement in any other court of competent jurisdiction. **EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE BETWEEN THE PARTIES OR WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

18.4 **Continuation of Work During Dispute**. Notwithstanding any Dispute, it shall be the responsibility of Contractor to continue to prosecute all of the Work diligently and in a good and workmanlike manner in conformity with this Agreement. Except to the extent provided in Sections 16.4 or 16.5, Contractor shall have no right to cease performance hereunder or to permit the prosecution of the Work to be delayed. Owner shall, subject to its right to withhold or offset amounts pursuant to this Agreement, continue to pay Contractor undisputed amounts in accordance with this Agreement; *provided, however*, in no event shall

the occurrence of any negotiation or litigation prevent or affect Owner from exercising its rights under this Agreement, including Owner's right to terminate pursuant to Article 16.

ARTICLE 19
CONFIDENTIALITY

19.1 **Contractor's Obligations**. Contractor hereby covenants and warrants that Contractor and its employees, officers, directors and agents shall not (without in each instance obtaining Owner's prior written consent) disclose, make commercial or other use of, or give or sell to any Person any of the following information, whether disclosed prior to or after the Effective Date: (i) any Work Product other than to Subcontractors or Sub-subcontractors as necessary for such Subcontractor or Sub-subcontractor to perform any Work or (ii) any other information which is conspicuously marked and identified in writing as confidential and relates to the business, products, services, research or development, actual or potential clients or customers, financing of the Train 3 Project, designs, methods, discoveries, trade secrets, research, development or finances of Owner or any Owner Affiliate, or relating to similar information of a third party who has entrusted such information to Owner or any Owner Affiliate (hereinafter individually or collectively, "***Owner's Confidential Information***"). Prior to disclosing any Owner's Confidential Information in (i) of this Section 19.1 to any Subcontractor or Sub-subcontractor necessary to perform the Work, Contractor shall bind such Subcontractor or Sub-subcontractor to the confidentiality obligations contained in this Section 19.1. Nothing in this Section 19.1 or this Agreement shall in any way prohibit Contractor or any of its Subcontractors or Sub-subcontractors from making commercial or other use of, selling, or disclosing any of their respective Contractor's Intellectual Property or Third Party Proprietary Work Product.

19.2 **Owner's Obligations**. Owner hereby covenants and warrants that Owner 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 any of the following information: (i) any estimating, technical or pricing information, methodologies, techniques or know-how of Contractor or its Subcontractors relating to the Work, including the Equipment, which is conspicuously marked and identified in writing as confidential by Contractor, (ii) any of Contractor's Intellectual Property or Third Party Proprietary Work Product, which is conspicuously marked and identified in writing as confidential by Contractor or (iii) any financial information provided to Owner pursuant to Section 9.4, whether or not marked and identified in writing as confidential by Contractor (hereinafter individually or collectively, "***Contractor's Confidential Information***"). The Parties agree that Owner may disclose Contractor's Confidential Information to its Affiliates, partners, underwriters, customers, a bona fide prospective purchaser of all or a portion of Owner's or any of its Affiliates' assets or ownership interests, a bona fide prospective assignee of all or a portion of Owner's interest in this Agreement, Lender and its representatives, Owner's (or Owner's Affiliates') consultants, rating agencies or any other party in relation to project financing for the Train 3 Project, *provided that* Owner binds such Persons to confidentiality obligations similar to those contained in this Section 19.2. Notwithstanding the foregoing (but subject to Section 10.1), in no event shall Owner be restricted in any way from the use or disclosure of the Work Product, and Owner shall be entitled to disclose to Persons that portion of Contractor's Intellectual Property and Third Party Proprietary Work Product for which Owner

has a license to the extent such disclosure is consistent with the purposes for which such license is granted pursuant to Section 10.1.

19.3 **Definitions**. The term "***Confidential Information***" shall mean one or both of Contractor's Confidential Information and Owner's Confidential Information, as the context requires. The Party having the confidentiality obligations with respect to such Confidential Information shall be referred to as the "***Receiving Party***," and the Party to whom such confidentiality obligations are owed shall be referred to as the "***Disclosing Party***."

19.4 **Exceptions**. Notwithstanding Sections 19.1 and 19.2, 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 Article 19; (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, other than directly or indirectly disclosed or acquired through the FEED Agreement, or any other agreements between the Parties related to the Train 3 Project; (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, but specifically excluding the Work Product; and (v) information which is required by Applicable Law or other agencies, including FERC, in connection with the Facility to be disclosed; *provided*, *however*, that prior to such disclosure, the Receiving Party gives reasonable notice to the Disclosing Party of the information required to be disclosed and, to the extent reasonably capable under Applicable Law and the circumstances surrounding the disclosure, shall provide Disclosing Party with an opportunity to take appropriate steps the Disclosing Party believes are necessary to protect the confidentiality and/or proprietary nature of its Confidential Information.

19.5 **Equitable Relief**. The Parties acknowledge that in the event of a breach of any of the terms contained in this Article 19, 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, in addition to any and all rights and remedies available to it at law and in equity, without the requirement of posting a bond.

19.6 **Term**. The confidentiality obligations of this Article 19 shall survive the expiration or termination of this Agreement for a period of ten (10) years following the expiration or earlier termination of this Agreement.

ARTICLE 20
LIMITATION OF LIABILITY

20.1 **Contractor Aggregate Liability**. Contractor shall not be liable to Owner under this Agreement for cumulative aggregate amounts in excess of Four Hundred and Thirty Million U.S. Dollars (U.S.$430,000,000) in the aggregate; *provided that*, notwithstanding the

foregoing, the limitation of liability set forth in this Section 20.1 shall not (i) apply in the event of Abandonment of the Train 3 Project by Contractor; (ii) apply to Contractor's indemnification obligations under this Agreement with respect to any claims brought by a third party; (iii) apply to Contractor's obligation to deliver to Owner full legal title to and ownership of all or any portion of the Work and the Train 3 Expansion as required under this Agreement; (iv) include the payment of proceeds (exclusive of any deductibles) under any insurance policy required to be provided by Contractor or any of its Subcontractors or Sub-subcontractors under this Agreement; or (v) apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel. In no event shall the limitation of liability set forth in this Section 20.1 be in any way deemed to limit Contractor's obligation to perform all Work required to achieve Substantial Completion for the Train 3 Expansion, and the costs incurred by Contractor in performing the Work shall not be counted against the limitation of liability set forth in this Section 20.1. For avoidance of doubt, amounts paid to Owner by Contractor for Delay Liquidated Damages shall be counted against the limitation of liability set forth in this Section 20.1. For purposes of this Section 20.1, "third party" means any Person other than Contractor, Owner, Lender or their respective Affiliates or member companies.

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 or joint negligence or fault of any Contractor Indemnified Party or Contractor's Subcontractors or Sub-subcontractors. 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, 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*, that Contractor's liabilities assumed under this Section 20.2 shall remain subject at all times to 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.

20.3 **Limitation on Contractor's Liability for Delay Liquidated Damages**.

A. ***Delay Liquidated Damages***. Subject to Section 20.3B, Contractor's maximum liability to Owner for Delay Liquidated Damages is One Hundred Ninety Million U.S. Dollars (U.S.$190,000,000) in the aggregate. For purposes of clarity, the Substantial Completion Delay Liquidated Damages, the RLFC Delay Liquidated Damages, the MCHE Replacement Delay Liquidated Damages and the Record As-Built Delivery Requirement Delay Liquidated Damages assessed against Contractor pursuant to Sections 13.2A, 11.1D, 11.4B, and 13.2B, respectively, shall apply towards the foregoing limitation of Contractor's Delay Liquidated Damages.

B. ***Exceptions to Limitations of Liability Under Section 20.3***. Section 20.3A shall not be construed to limit Contractor's other obligations or liabilities under this Agreement (including (i) its obligations to complete the Work for the compensation provided under this Agreement, (ii) its obligations to achieve Substantial Completion and Final Completion and (iii) its obligations with respect to Minimum Acceptance Criteria and Warranties), nor shall the limits specified in this Section 20.3apply in the event of the Gross Negligence or Willful Misconduct of any Senior Supervisory Personnel.

20.4 **Delay Liquidated Damages In General**.

A. ***Delay Liquidated Damages Not Penalty***. It is expressly agreed that Delay Liquidated Damages payable under this Agreement do not constitute a penalty and that the Parties, having negotiated in good faith for such specific Delay Liquidated Damages and having agreed that the amount of such Delay Liquidated Damages is reasonable in light of the anticipated harm caused by the breach related thereto and the difficulties of proof of loss and inconvenience or non-feasibility of obtaining any adequate remedy, are estopped from contesting the validity or enforceability of the per Day rate of the Delay Liquidated Damages on the basis that such per Day rate constitutes a penalty or is otherwise unenforceable or invalid. If Contractor, Guarantor or anyone on their behalf successfully challenges the per Day rate of any Delay Liquidated Damages, Contractor specifically agrees to pay Owner all actual damages incurred by Owner in connection with such breach, including any and all consequential damages (such as loss of profits and revenues, business interruption, loss of opportunity and use) and all costs incurred by Owner in proving the same, without regard to any limitations whatsoever set forth in this Agreement. For the avoidance of doubt, this Section 20.4A shall not preclude

Contractor from contesting whether it is responsible for delays giving rise to Owner's claims for Delay Liquidated Damages.

B. ***Delay Liquidated Damages as Exclusive Damages***. Payment of any Delay Liquidated Damages with respect to any Work shall be in addition to, and not in lieu of, Contractor's other obligations under this Agreement. Notwithstanding the foregoing: (1) Substantial Completion Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for delay in achieving Substantial Completion of the Train 3 Expansion, (2) the Record As-Built Delivery Requirement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving the Record As-Built Delivery Requirement, (3) the RLFC Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in readiness to load the LNG Tanker as set forth in Section 11.1D and (4) the MCHE Replacement Delay Liquidated Damages shall be the sole and exclusive damages owed by Contractor for a delay in achieving Substantial Completion due to an MCHE Replacement Scenario.

20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS, OR DAMAGES OR LOSSES FOR PRINCIPAL OFFICE EXPENSES INCLUDING COMPENSATION OF PERSONNEL STATIONED THERE AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES; *PROVIDED THAT* THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 20.5 SHALL NOT APPLY: (I) TO THE DELAY LIQUIDATED DAMAGES SET OUT IN SECTION 13.2; (II) TO CONTRACTOR'S INDEMNIFICATION OBLIGATIONS FOR CLAIMS BROUGHT BY ANY THIRD PARTY; OR (III) WHERE CONSEQUENTIAL DAMAGES ARE EXPRESSLY PERMITTED UNDER SECTION 20.4A. FOR THE PURPOSES OF THIS SECTION 20.5, THE TERM "THIRD PARTY" SHALL MEAN ANY PERSON OTHER THAN CONTRACTOR, OWNER OR ANY OF THEIR RESPECTIVE AFFILIATES. AS USED IN THIS SECTION 20.5, OWNER SHALL MEAN THE OWNER INDEMNIFIED PARTIES AND CONTRACTOR SHALL MEAN THE CONTRACTOR INDEMNIFIED PARTIES AND CONTRACTOR'S SUBCONTRACTORS AND SUB-SUBCONTRACTORS.

20.6 **Owner Separate Contracts**. In any separate contract which Owner enters into after the Effective Date with technical consultants and contractors (other than Contractor) for the construction of the Train 3 Expansion, Owner shall use reasonable efforts to provide that indemnities running to the benefit of Owner in such contracts shall also run to the benefit of Contractor.

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.

20.8 **Application of Liability Limitations**.

A. Except to the extent prohibited by the governing law specified in Section 21.9, or as stated in the terms of this Agreement, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability and indemnities expressed throughout this Agreement shall apply even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract or otherwise of the Person released or whose liability is waived, disclaimed, limited, fixed or indemnified.

B. Except as specifically stated in Section 8.2A.1 (with respect to the policy deductibles for builder's risks or marine cargo insurance), no liabilities incurred by T1/T2 EPC Contractor arising from the Train 1 EPC Agreement or Train 2 EPC Agreement (including any delay liquidated damages assessed thereunder) shall accrue against any limitations of liability under this Agreement (including the limitations of liability set forth in Sections 20.1 and 20.3). Conversely, no liabilities incurred by Contractor arising under this Agreement (except the aforementioned portion of Section 8.2A.1), including any Delay Liquidated Damages assessed hereunder, shall accrue against any limitations of liability under the Train 1 EPC Agreement or Train 2 EPC Agreement.

ARTICLE 21
MISCELLANEOUS PROVISIONS

21.1 **Entire Agreement**. This Agreement, including the Attachments and Schedules attached to and incorporated into this Agreement, and the Equipment Sharing Agreement (once executed) contain the entire understanding of the Parties with respect to the subject matter hereof and incorporates any and all prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement or the Equipment Sharing Agreement. General or special conditions included in any of Contractor's price lists, invoices, tickets, receipts or other such documents presented to Owner shall have no applicability to Owner with respect to this Agreement. Notwithstanding anything to the contrary herein, with respect to the FEED Agreement, this Agreement and the Equipment Sharing Agreement supersede such FEED Agreement only to the extent of the work performed under the FEED Agreement that relates to the Scope of Work under this Agreement. All Work performed under the FEED Agreement and any other agreements between the Parties relating to the Scope of Work under this Agreement shall be governed by the terms and conditions set forth in this Agreement and the Equipment Sharing Agreement.

21.2 **Amendments**. Other than unilateral Change Orders issued by Owner to Contractor pursuant to Section 6.1C or Section 6.2D, no change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification is in writing and duly executed by both Parties hereto.

21.3 **Joint Effort**. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

21.4 **Captions**. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

21.5 **Notice**. Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be either (i) hand delivered; (ii) delivered by same-day or overnight courier; (iii) delivered by facsimile with written confirmation of complete transmittal; or (iv) delivered by certified mail, return receipt requested, to the other Party at the address set forth below.

A. If delivered to Owner:

FLNG Liquefaction 3, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: Mark Mallett

with a copy to:

FLNG Liquefaction 3, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Facsimile: 713-980-2903
Attn: General Counsel

B. If delivered to Contractor:

CB&I/Zachry/Chiyoda Joint Venture
c/o CB&I Inc.
6001 Rogerdale
Houston, Texas 77072
Facsimile: 713-485-1005
Attn: Chet Lloyd

with a copy to:

CB&I Inc.
2103 Research Forest Blvd.
The Woodlands, Texas 77380
Facsimile: 832-513-1591
Attn: General Counsel

Each Party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other Party in like manner. Notices, demands, offers or other written instruments shall be deemed to be received: (1) if delivered by hand, by same-day or overnight courier service, or certified mail on the date actually received at the address of the intended recipient; or (2) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.

21.6 **Severability**. The invalidity of one or more phrases, sentences, clauses, Sections or Articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

21.7 **Assignment**. This Agreement may be assigned to other Persons only upon the prior written consent of the non-assigning Party hereto, except Owner may assign this Agreement, in whole or part, to any of its Affiliates or any of its co-venturers or to any Person who acquires an ownership interest in Owner or the Train 3 Expansion. Furthermore, Owner may assign, pledge and/or grant a security interest in this Agreement that Owner has or which shall hereafter arise in and to Owner and all claims resulting from any failure of performance with any provision of this Agreement to any Lender without Contractor's consent. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; *provided that* any assignment by Contractor pursuant to this Section 21.7 shall not relieve Contractor of any of its obligations or liabilities under this Agreement. Any assignment not in accordance with this Section 21.7 shall be void and without force or effect, and any attempt to assign this Agreement in violation of this provision shall grant the non-assigning Party the right, but not the obligation, to terminate this Agreement at its option for Default.

21.8 **No Waiver**. Any failure of either Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

21.9 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, 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 Agreement and shall be disclaimed in and excluded from any Subcontracts entered into by Contractor in connection with the Work or the Train 3 Expansion.

21.10 **Successors and Assigns**. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

21.11 **Attachments and Schedules**. All Attachments and Schedules shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

21.12 **Obligations**. Nothing contained in this Agreement shall be construed as constituting a joint venture or partnership between Contractor and Owner.

21.13 **Further Assurances**. Contractor and Owner agree to provide such information, execute and deliver any such instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations greater than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. In addition, Contractor agrees to cooperate with any Lender (i) to supply such information and documentation, (ii) to grant such written consents to the assignment of this Agreement, (iii) to execute such amendments to this Agreement as any Lender may require to the extent that the requested changes do not adversely affect the rights, obligations and liability limitations of Contractor hereunder and Contractor's entitlement to payment in accordance with this Agreement, and (iv) to take such action or execute such documentation as any Lender shall reasonably require.

21.14 **Priority**. The documents that form this Agreement are listed below in order of priority, with the document having the highest priority listed first and the one with the lowest priority listed last. Subject to Section 1.1 under the definition of Applicable Codes and Standards regarding conflicts or inconsistencies between any Applicable Codes and Standards, in the event of any conflict or inconsistency between a provision in one document and a provision in another document, the document with the higher priority shall control. In the event of a conflict or inconsistency between provisions contained within the same document, then the provision that requires the highest standard of performance on the part of Contractor shall control. This Agreement is composed of the following documents, which are listed in priority:

A. Change Orders or written amendments to this Agreement;

B. this Agreement; and

C. Attachments and Schedules to this Agreement.

21.15 **Restrictions on Public Announcements**. Neither Contractor nor its Subcontractors or Sub-subcontractors shall (i) use or take any photographs of any part of the Facility (except as may be included in a Monthly Progress Report) or (ii) publicly refer to the Work, the Train 3 Project or any part of the Facility in any manner, including the issuance of a press release, advertisement, publicity material, prospectus, financial document or similar material, the creation of any business development materials, proposals, reference materials or similar materials, or the participation in a media interview that mentions or refers to the Work, the Train 3 Project or any part of the Facility without the prior written consent of Owner (which shall not be unreasonably withheld). Under no circumstance shall Contractor permit

access to the Site by third parties who are not involved in the performance of the Work without prior written consent of Owner.

21.16 **Parent Guarantee**. CB&I Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Zachry Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. Chiyoda Guarantor will guarantee the full and faithful performance of all obligations of Contractor under this Agreement in the form attached as Attachment U hereto. The guarantees contained in this Section 21.16 is unconditional and irrevocable. Each of the guarantees provided by CB&I Guarantor, Zachry Guarantor and Chiyoda Guarantor are individually referred to as a "***Parent Guarantee***" and collectively as "***Parent Guarantees***."

21.17 **Foreign Corrupt Practices Act**. With respect to the performance of the Work, each Party shall, and shall cause each of its contractors (or, in the case of Contractor, its Subcontractors and Sub-subcontractors), and the agents and employees of each of them to, comply with all provisions of the Foreign Corrupt Practices Act of the United States (15 U.S.C. § 78dd-1 and 2), as amended (or, if such act is not applicable to a Person, to act in such manner that would comply with the provisions of such act were it applicable to such Person). Neither Party shall take any action that could result in the other Party or any of its Affiliates becoming subject to any action, penalty or loss of benefits under such Act and shall not make, direct or indirect payments of a corrupt nature, to employees, agents or public employees of a government, or candidates or active members of political parties, in order to obtain or maintain business.

21.18 **Language**. This Agreement and all notices, communications and submittals between the Parties pursuant to this Agreement shall be in the English language, unless otherwise directed by Owner in writing.

21.19 **Counterparts**. This Agreement may be signed in any number of counterparts and each counterpart (when combined with all other counterparts) shall represent a fully executed original as if one copy had been signed by each of the Parties. Facsimile signatures shall be deemed as effective as original signatures.

21.20 **Owner's Lender(s)**. In addition to other assurances provided in this Agreement, Contractor acknowledges that Owner intends to obtain financing for or in connection with the Train 3 Project and Contractor agrees to cooperate with Owner and any Lender in connection with such financing (and any refinancing), including delivering, as a condition to any such financing or refinancing, such documentation and information as is customary for a financing or refinancing of such type and entering into direct agreements with such Lender, as required by such Lender, covering matters that are customary in a financing or refinancing of such type, including: Lender assignment or security rights with respect to this Agreement; opinions; direct notices to Lender, with applicable cure periods, prior to any termination, suspension or other similar action; step-in/step-out rights; an obligation on the Parties not to amend the Agreement without Lender's consent; access by such Lender's representative and other matters applicable to such financing or refinancing. Contractor acknowledges and agrees that Owner's issuance of NTP is contingent upon obtaining such

non-recourse project financing and agrees further that in the event Owner does not obtain such project financing, Owner may terminate this Agreement for convenience in accordance with Section 16.2.

21.21 **Joint and Several Liability**. Contractor is a joint venture comprised of: (i) CB&I Inc., a Texas corporation ("***CB&I***"), (ii) Zachry Industrial, Inc., a Delaware corporation ("***Zachry***") and (iii) Chiyoda International Corporation, a Washington corporation ("***Chiyoda***"). CB&I, Zachry and Chiyoda agree on behalf of themselves and their respective insurers and guarantors to be jointly and severally responsible and liable to Owner for all of Contractor's duties and obligations under this Agreement and for all claims, damages, costs, expenses and all other liability arising out of or relating to the performance or failure to perform any of Contractor's duties or obligations under this Agreement or otherwise arising out of the Train 3 Project.

21.22 **Coordination Between this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement**.

A. ***Administrative Coordination***. Owner and Contractor acknowledge that Owner, FLIQ1 and FLIQ2 are concurrently (but separately) developing and financing the Train 1 Expansion, Train 2 Expansion and the Train 3 Expansion, respectively, and that T1/T2 EPC Contractor is providing the turnkey engineering, procurement and construction services for the Train 1 Expansion and the Train 2 Expansion in accordance with the Train 1 EPC Agreement and the Train 2 EPC Agreement, respectively. Notwithstanding the separate agreements and different joint venture entities under which the Train 3 Expansion, the Train 1 Expansion and Train 2 Expansion will be developed, the Parties intend to use commercially reasonable efforts to minimize administrative duplication and expense where reasonably practicable.

B. ***Coordination of Contractor's Work and Effects of Contractor's Acts or Omissions between this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement***. Contractor acknowledges that T1/T2 EPC Contractor, in accordance with the Train 1 EPC Agreement and the Train 2 EPC Agreement, will design, engineer, procure, construct, pre-commission, commission, start-up and test the Train 1 Expansion and the Train 2 Expansion, respectively, while concurrently performing the Work under this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor further acknowledges that any work performed by (or on behalf of) T1/T2 EPC Contractor under the Train 1 EPC Agreement or the Train 2 EPC Agreement (as such agreement may be modified from time to time in accordance with the terms thereof), as well as any acts or omissions of T1/T2/ EPC Contractor, or any of its subcontractors or sub-subcontractors in connection with the Train 1 EPC Agreement, the Train 2 EPC Agreement, the Train 1 Expansion or the Train 2 Expansion, shall in no way cause, or entitle Contractor to, any modification of the Contract Price, Train 3 Project Schedule or any other Changed Criteria under this Agreement unless such circumstance also entitles Contractor to a Change Order under Section 6.2A herein.

C. ***Coordination of FLIQ1 Directives under the Train 1 EPC Agreement and FLIQ2 Directives under the Train 2 EPC Agreement***. The Parties agree and

acknowledge that no act, instruction or direction by FLIQ1 or FLIQ2, or anyone acting for or on behalf of FLIQ1 or FLIQ2 under the Train 1 EPC Agreement and Train 2 EPC Agreement, respectively, shall entitle Contractor to any modification of the Contract Price, Train 3 Project Schedule or any other Changed Criteria, unless such instruction or direction originates from a unilateral change order (as such term is defined under the Train 1 EPC Agreement or Train 2 EPC Agreement, respectively), such unilateral change order impacts any Changed Criteria and Contractor complies and meets the requirements herein. Contractor shall provide a written notice to Owner no later than ten (10) Days following issuance of such unilateral change order. Such written notice shall meet the requirements of Section 6.5, including a reasonably detailed description of the impact of such unilateral change order on any Changed Criteria. If Contractor provides such written notice in accordance with this Section 21.22C and FLIQ1 or FLIQ2 subsequently fails to withdraw such unilateral change order (or alternatively, fails to modify such unilateral change order to remove those requirements identified by Contractor which impacts any Changed Criteria), Contractor shall be entitled to request a Change Order to the extent allowed under Section 6.8 and to the extent that such unilateral change order does actually impact the Changed Criteria. The Parties acknowledge that Owner will be prejudiced if Contractor fails to provide the written notice to Owner in accordance with this Section 21.22C, and as such, the Parties agree that such notice requirement is an express condition precedent necessary for any right for an adjustment in Contract Price, the Train 3 Project Schedule, or any other Changed Criteria.

D. ***Coordination of Relief to Contractor as a Result of Force Majeure Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that an event of "Force Majeure" (as defined in the Train 1 EPC Agreement or Train 2 EPC Agreement) which only directly impacts the Train 1-Specific Work or Train 2-Specific Work (as defined in the Train 1 EPC Agreement or Train 2 EPC Agreement, as applicable) may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 3 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 3 Project Schedule to the extent allowed under, and in accordance with, Section 6.7 (including, as required by such Section 6.7, Contractor's compliance with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10).

E. ***Coordination of Relief to Contractor as a Result of Certain Owner-Assumed Risks Under the Train 1 EPC Agreement***. Contractor and Owner acknowledge that a circumstance providing Contractor with relief under Section 6.9 of the Train 1 EPC Agreement or Section 6.9 under the Train 2 EPC Agreement, which only directly impacts the Train 1-Specific Work or Train 2-Specific Work may, nevertheless, as a result of out of sequence work, inefficiency, ripple effect or lost productivity, result in an indirect effect to the Train 3 Project Schedule. In such an event, Contractor shall be entitled to a Change Order under this Agreement for an extension to the Train 3 Project Schedule to the extent allowed under, and in accordance with, Section 6.8 of this Agreement (including, as required by such Section 6.8,

Contractor's compliance with the notice and Change Order request requirements in Section 6.5 and the mitigation requirements in Section 6.10).

F. ***Limitation of Rights and Relief between this Agreement, the Train 1 EPC Agreement and the Train 2 EPC Agreement***. For purposes of clarity, any event or circumstance entitling T1/T2 EPC Contractor to a change order under the Train 1 EPC Agreement or the Train 2 EPC Agreement shall not, in and of itself, entitle Contractor to a Change Order under this Agreement unless such event or circumstance, separately, entitles Contractor to a Change Order under Section 6.2A.

21.23 **Survival**. Article 9, Article 10, Article 12, Article 13, Article 14, Article 15, Article 16, Article 17, Article 18 and Article 19, Article 20, Sections 3.6, 3.8, 3.13, 3.14, 3.17, 4.5, 4.6, 8.1, 8.2, 11.10, 21.1, 21.9, 21.16, 21.21 and this Section 21.23 shall survive termination or expiration of this Agreement, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond the termination or expiration of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Owner:

FLNG LIQUEFACTION 3, LLC

By: FLIQ3 Holdings, LLC, its sole member

By: Freeport LNG Expansion, L.P., its sole member

By: Freeport LNG Expansion GP, LLC, its general partner

By:_____
Name:
Title:

Contractor:

ZACHRY INDUSTRIAL, INC.

By:_____
Name:
Title:

CB&I INC.

By: _____
Name:
Title:

CHIYODA INTERNATIONAL CORPORATION

By: _____
Name:
Title:

Separately acknowledged by Zachry Industrial, Inc., CB&I, Inc. and Freeport LNG Expansion, L.P., but only for purposes of superseding the FEED Agreement pursuant to Section 21.1.

ZACHRY INDUSTRIAL, INC.

By:_____
Name:
Title:

CB&I INC.

By: _____
Name:
Title:

FREEPORT LNG EXPANSION, L.P.

By Freeport LNG Expansion GP, LLC, its general partner

By:_____
Name:
Title:

EXHIBIT D

PARENT GUARANTEE

This GUARANTEE (this "***Guarantee***"), dated as of March 24, 2015, is made by Zachry Holdings, Inc., a Delaware corporation ("***Guarantor***"), in favor of FLNG Liquefaction 3, LLC, a Delaware limited liability company ("***Owner***," and, together with Guarantor, each a "***Party***" and, collectively, the "***Parties***"). Capitalized terms used, but not otherwise defined, herein shall have the respective meanings ascribed to such terms in the Agreement (as defined below).

RECITALS

WHEREAS, Owner has agreed to enter into the Fixed Price Separated Turnkey Agreement for the Engineering, Procurement and Construction of the Freeport Train 3 Liquefaction Project, dated March 24, 2015, with Zachry Industrial, Inc., CB&I Inc. and Chiyoda International Corporation (collectively under a joint venture agreement, the "***Contractor***") for the engineering, procurement, construction, commissioning, start-up and testing of a natural gas pretreatment, liquefaction, storage and LNG loading terminal located near Freeport, Texas (the "***Agreement***"), which is hereby incorporated by reference in this Guarantee and made a part hereof; and

WHEREAS, Guarantor is the parent company of Zachry Industrial, Inc., which is a member of the joint venture that comprises the Contractor; and

WHEREAS, it is a condition to Owner and Contractor's entering into the Agreement that Guarantor execute and deliver this Guarantee.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Guarantee.

(a) On the terms and subject to the conditions contained herein, Guarantor hereby absolutely, unconditionally and irrevocably guarantees, to and for the benefit of Owner, the full and punctual performance and payment as and when such payment or performance becomes due (whether at the stated due date, by acceleration or otherwise), by or on behalf of Contractor of any and all obligations or amounts owed by Contractor to Owner in connection with and to the extent provided for in the Agreement (the "***Guaranteed Obligations***"). The Guaranteed Obligations of Guarantor hereunder are direct and primary obligations.

(b) This Guarantee is an absolute, unconditional, present, and continuing guarantee of performance and payment, and not of collection, is in no way conditioned or contingent upon any attempt to collect from or enforce performance or payment by Contractor or upon any other event, contingency or circumstance whatsoever, and shall remain in full force and effect and be binding upon and against Guarantor and its successors and permitted assigns (and shall inure to the benefit of Owner and its successors, endorsees, transferees, and permitted assigns). If, for any reason, Contractor shall fail or be unable duly, punctually, and fully to perform or pay, as and when such performance or payment is due, any of the Guaranteed Obligations, Guarantor shall promptly perform or pay, or cause to be performed or paid, such Guaranteed Obligations.

(c) Guarantor agrees that any judgment between Contractor and Owner under the Agreement (whether in contested litigation or arbitration, by default or otherwise) shall be conclusive and binding on the Parties for the purposes of determining Guarantor's obligations under the Guarantee.

2. Obligations Absolute and Unconditional, Continuing; Etc. Guarantor agrees that the obligations of Guarantor set forth in this Guarantee shall be direct obligations of Guarantor, and such obligations shall be absolute, irrevocable and unconditional, shall not be subject to any counterclaim, set-

off, deduction, diminution, abatement, recoupment, suspension, deferment, reduction or defense (other than full and strict compliance with its obligations hereunder) based upon any claim Guarantor or any other Person may have against Owner or any other Person and shall remain in full force and effect without regard to and shall not be released, discharged or in any way affected or impaired by, any circumstance or condition whatsoever (other than full and strict compliance by Guarantor with its obligations hereunder) (whether or not Guarantor shall have any knowledge or notice thereof), including, without limitation: (i) any amendment or modification of or supplement to or other change in the Agreement or any other document, including, without limitation, any change order, renewal, extension, acceleration or other changes to payment terms thereunder; (ii) any failure, omission or delay on the part of Owner or any other Person to confirm or comply with any term of the Agreement or any other document, (iii) any exercise or non-exercise of any right, remedy, power, or privilege under or in respect of any such instrument or agreement or any such obligation or liability; (iv) any bankruptcy, insolvency, reorganization, arrangement, readjustment, liquidation, or similar proceeding with respect to Owner, Contractor or any other Person or any of their respective properties, or any action taken by any trustee or receiver or by any court in any such proceeding; (v) any merger or consolidation of Guarantor, Contractor or any other Person into or with any other Person or any sale, lease or transfer of all or any of the assets of Guarantor, Contractor or any other Person; (vi) any change in the ownership of Guarantor, Contractor, or any other Person; (vii) any winding up or dissolution of Contractor; or (viii) to the extent permitted under Applicable Law, any other occurrence or circumstance whatsoever, whether similar or dissimilar to the foregoing, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of guarantor or surety or which might otherwise limit recourse against Guarantor. The Guaranteed Obligations constitute the full recourse obligations of Guarantor enforceable against it to the full extent of all its assets and properties. Without limiting the generality of the foregoing, Guarantor agrees that repeated and successive demands may be made and recoveries may be had hereunder as and when, from time to time, Contractor shall fail to perform obligations or pay amounts owed by Contractor under the Agreement and that notwithstanding the recovery hereunder for or in respect of any given failure to so comply by Contractor under the Agreement, this Guarantee shall remain in full force and effect and shall apply to each and every subsequent such failure. Guarantor's obligations and liability under this Guarantee shall not exceed the obligations and liabilities of Contractor under the Agreement and Guarantor shall have the right to avail itself of all defenses, releases and limitations of liability available to Contractor pursuant to the Agreement; *provided that*, the foregoing statement shall not be interpreted to relieve Guarantor of any Guaranteed Obligations or preclude any remedy available to Owner due to any of the circumstances in Sections 2(iv) or 2(vii) above.

3. Reinstatement. Guarantor agrees that this Guarantee shall be automatically reinstated with respect to any payment made by or on behalf of Contractor pursuant to the Agreement if and to the extent that such payment is rescinded or must be otherwise restored, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

4. Waiver of Demands, Notices; Etc. Guarantor hereby unconditionally waives, to the extent permitted by Applicable Law: (i) notice of any of the matters referred to in Section 2 hereof; (ii) all notices which may be required by Applicable Law, or otherwise, now or hereafter in effect, to preserve any rights against Guarantor hereunder, including, without limitation, any demand, proof, or notice of non-payment or non-performance of any Guaranteed Obligation; (iii) notice of acceptance of this Guarantee, demand, protest, presentment, notice of failure of performance or payment, and any requirement of diligence; and (iv) any requirement to exhaust any remedies or to mitigate any damages resulting from failure of performance or payment by Contractor under the Agreement or by any other Person under the terms of the Agreement.

5. No Subrogation. Notwithstanding any performance, payment or payments made by Guarantor hereunder (or any set-off or application of funds of Guarantor by Owner), Guarantor shall not be entitled to be subrogated to any of the rights of Contractor (or of any rights of Owner hereunder), or any

collateral, security, or guarantee or right of set-off held by Owner, for the performance or payment of the obligations guaranteed hereunder, nor shall Guarantor seek or be entitled to assert or enforce any right of contribution, reimbursement, indemnity or any other right to payment from Contractor as a result of Guarantor's performance of its obligations pursuant to this Guarantee until all Guaranteed Obligations are performed or paid in full. If any amount shall be paid to Guarantor on account of such subrogation, contribution, reimbursement or indemnity rights at any time when all of the Guaranteed Obligations and all amounts owing hereunder shall not have been performed and paid in full, such amount shall be held by Guarantor in trust for Owner, segregated from other funds of Guarantor, and shall, forthwith upon receipt by Guarantor, be turned over to Owner in the exact form received by Guarantor (duly endorsed by Guarantor to Owner, if required), to be applied against the Guaranteed Obligations, whether or not matured, in such order as Owner may determine.

6. Representations and Warranties. Guarantor represents and warrants that:

(a) it is a corporation duly organized and validly existing under the laws of Delaware and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guarantee;

(b) the execution, delivery and performance of this Guarantee will not conflict with, violate or breach the terms of any agreement of Guarantor;

(c) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guarantee; and

(d) this Guarantee, when executed and delivered, will constitute a valid and legally binding agreement of Guarantor, except as the enforceability of this Guarantee may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity as they apply to the Guarantor.

7. Miscellaneous.

(a) This Guarantee shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. Guarantor may not assign or transfer this Guarantee or any rights or obligations hereunder without Owner's prior written consent. Owner shall have the same rights of assignment of this Guarantee as it has for the Agreement as set forth in Section 21.7 of the Agreement, including the rights to grant a security interest in this Guarantee to any Lender. Except as otherwise provided in this Section 7, nothing herein, express or implied, is intended or shall be construed to confer upon or to give to any Person other than the Parties hereto any rights, remedies, or other benefits.

(b) This Guarantee shall be governed by, and construed in accordance with, the laws of the State of Texas, without giving effect to the principles thereof relating to conflicts of law.

(c) The Parties agree that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, connected with, or relating in any way to this Guarantee (including, without limitation, the construction, validity, interpretation, termination, enforceability or breach of this Guarantee, the relationship of the Parties established by this Guarantee, or any dispute over jurisdiction) ("***Dispute***") shall be decided by litigation pursuant to this Section 7(c). Each Party (i) irrevocably submits to the exclusive jurisdiction of any Federal court or Texas state court sitting in Houston, Texas in any Dispute arising under or relating to this Guarantee, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of inconvenient forum, (iv)

consents to the service of process by mail in accordance with the notice provisions of this Guarantee, and (v) agrees not to arbitrate, or abate to arbitration, any Dispute arising under this Agreement. At Owner's sole option, Contractor may be joined in the litigation between Owner and Guarantor, or Guarantor shall be required to join any litigation between Owner and Contractor under the Agreement. In addition, at Owner's sole option, any other Person may be joined as an additional party to any litigation conducted under this Section 7(c), *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. A final judgment, including all rights of appeal, in any such action shall be conclusive and may be enforced in other jurisdictions.

(d) No modification or amendment of this Guarantee shall be of any force or effect unless made in writing, signed by the Parties hereto, and specifying with particularity the nature and extent of such modification or amendment. This Guarantee constitutes the entire and only understanding and agreement among the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior negotiations, proposals, representations, understandings, commitments, communications, or agreements, whether oral or written, with respect to the subject matter hereof.

(e) All notices, demands, offers, requests and other written instruments required or permitted to be given pursuant to this Guarantee shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by overnight courier, messenger, facsimile or certified mail, return receipt requested, to the other Parties at the address set forth below.

If to Owner:

FLNG Liquefaction 3, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Attn: Mark Mallett
Facsimile: 713-980-2903

with a copy to:

FLNG Liquefaction 3, LLC
333 Clay Street, Suite 5050
Houston, Texas 77002
Attn: General Counsel
Facsimile: 713-980-2903

If to Guarantor:

Zachry Holdings, Inc.
527 Logwood
San Antonio, Texas 78221
Attn: Kirk McDonald
Facsimile: 210-558-5380

with a copy to:

Zachry Holdings, Inc.
527 Logwood
San Antonio, Texas 78221
Attn: General Counsel
Facsimile: 210-558-6528

Each Party shall have the right to change the place to which such notices shall be sent or delivered by sending a similar notice to the other Parties in like manner. Notices, demands, offers, requests or other written instruments shall be deemed to have been duly given on the date actually received by the intended recipient, provided that if the day of receipt is not a Business Day then it shall be deemed to have been received on the next succeeding Business Day.

(g) The headings of the several provisions of this Guarantee are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Guarantee.

(h) No forbearance or delay by Owner in asserting rights against Contractor shall affect or impair in any way Guarantor's obligations hereunder or the rights of Owner hereunder.

(i) In addition to other assurances provided in this Guarantee, Guarantor acknowledges that Owner intends to obtain financing associated with the Train 3 Project and Guarantor agrees to cooperate with Owner and Lender in connection with such financing, including, but not limited to, entering into direct agreements with Lender, as required by Lender, covering matters that are customary in financings of this type such as Lender assignment or security rights with respect to this Guarantee, direct notices to Lender, step-in/step-out rights, access by Lender's representative (including its independent engineer) and other matters applicable to such financing.

(j) The term "***Person***" shall mean any individual, company, joint venture, corporation, partnership, association, joint stock company, limited liability company, trust, estate, unincorporated organization, governmental entity or other entity having legal capacity.

(k) This Guarantee may be executed in any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have duly executed this Guarantee as of the date first above written.

ZACHRY HOLDINGS, INC.

By: _____
Name: _____
Title: _____

FLNG LIQUEFACTION 3, LLC

By: _____
Name: MICHAEL S. SMITH
Title: AUTHORIZED SIGNATORY

ACKNOWLEDGED BY SUBSIDIARY:

ZACHRY INDUSTRIAL, INC.

By: _____
Name: _____
Title: _____

Signature Page for Parent Guarantee

IN WITNESS WHEREOF, the undersigned have duly executed this Guarantee as of the date first above written.

ZACHRY HOLDINGS, INC.

By: _____
Name: D. KIRK McDONALD
Title: Executive Vice President

FLNG LIQUEFACTION 3, LLC

By: _____
Name: _____
Title: _____

ACKNOWLEDGED BY SUBSIDIARY:

ZACHRY INDUSTRIAL, INC.

By: _____
Name: _____
Title: RALPH J. BIEDIGER
President, Construction Group

EXHIBIT 12

Train 3 EPC Contract [FILED UNDER SEAL] [Adv. Pro. No. 24-03189, Docket No. 13, Ex. A; Adv. Pro. No. 24-03190, Docket No. 13, Ex. A]

EXHIBIT 13

Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523] [Docket No. 1187]

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)

DEBTORS' OBJECTION
TO THE FLNG CONTRACT CLAIMS
[CLAIM NOS. 1443, 1499, 1500, 1501, 1502, AND 1523]

This is an objection to your claim. This objection asks the Court to disallow the claim that you filed in this bankruptcy case. If you do not file a response within 30 days after the objection was served on you, your claim may be disallowed without a hearing.

A hearing has been set on this matter on November 18, 2024, at 9:00 a.m., prevailing Central Time, in Courtroom 404, 4th Floor, 515 Rusk Street, Houston, Texas 77002.

You may participate in the hearing either in person or by an audio and video connection. Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Isgur's conference room number is 954554. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click on the link on Judge Isgur's homepage. The meeting code is "JudgeIsgur". Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Isgur's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

[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.

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") file this objection (the "**Objection**") to the FLNG Contract Claims (as defined below) set forth in proofs of claim number 1443, 1499, 1500, 1501, 1502, and 1523 (collectively, the "**Proofs of Claim**"), filed by FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3 LLC (collectively, "**FLNG**"). In support of this Objection, the Debtors submit the *Declaration of Ralph Biediger in Support of the Debtors' Objection to the FLNG Contract Claims [Claim Nos. 1443, 1499, 1500, 1501, 1502, and 1523]* attached hereto as **Exhibit A** (the "**Biediger Declaration**"). In further support of this Objection, the Debtors respectfully state as follows:[2]

Preliminary Statement

1. In 2013 and 2015, FLNG negotiated and entered into three Texas-law governed contracts with Debtor Zachry Industrial, Inc. ("**ZII**"), CB&I Inc. ("**CB&I**"), and, with respect to the third contract, also with Chiyoda International Corporation ("**Chiyoda**" and, together with CB&I and ZII, the "**JV Partners**"), to develop three processing units, also known as trains, and common infrastructure on a fixed-price, turnkey basis for use in liquified natural gas exportation at the FLNG's Quintana Island LNG Liquefaction and Export Facility (the "**Facility**"). The JV Partners performed the work, and the three trains became operational and began exporting liquified natural gas in December 2019, January 2020, and May 2020, respectively.

2. On January 17, 2024, a motor on Train 3 allegedly "tripped" and remained offline due to an alleged electrical short within a "non-accessible portion" of the motor caused by loose hardware that dislodged and fell into the motor windings. A few months later, FLNG filed a breach of contract action against the JV Partners, alleging that the incident occurred due to significant defects in the performance of the JV Partners' work under the contracts that caused "major

[2] Capitalized terms used but not defined in this Objection shall have the meaning ascribed to such terms in the EPC Contracts (as defined herein).

damage" to key equipment at the Facility. FLNG asserts that it had to shut down operations and as a result incurred substantial repair costs and other damages, which it now seeks to recover. FLNG further alleges that because the JV Partners' acts and omissions constitute gross negligence, it is also entitled to recover lost profits. Based solely on the allegations set forth in the pending action, FLNG also filed six identical Proofs of Claim against ZII and Debtor Zachry Holdings, Inc. ("**ZHI**") as parent guarantor asserting unliquidated general unsecured claims.

3. ZII has moved to dismiss the pending action for failure to state a claim insofar as it seeks recovery for lost profits and other consequential damages. ZII is now also seeking disallowance of those portions of the Proofs of Claim as unenforceable for the same reason. The contracts that FLNG alleges ZII breached contain an express waiver of lost profits and other consequential damages, and such waivers are routinely enforced by courts applying Texas law. FLNG itself acknowledged that the contracts are valid and enforceable and that its losses are commercial in nature, which precludes FLNG's recovery of any lost profits, business interruption, or similar consequential damages.

4. Additionally, the Proofs of Claim against ZII are meritless and should be disallowed in their entirety. Although ZII is continuing to investigate its defenses, ZII has at least two common-law and contractual defenses. First, the motor failure was not caused by the JV Partners' work. In fact, FLNG had rejected the JV Partners' recommendation against using the motors in question. FLNG, thus, has waived any right to complain of the alleged defects in the compression motors, latent or otherwise. Moreover, the scope of the JV Partners' Work on the project did not include the internal design or construction of the motors, and as such the alleged defects were not caused by the JV Partners' (including ZII's) Work but resulted from a latent manufacturing defect in equipment procured, on FLNG's request, by ZII that it could not have discovered. Second, the

parties agreed in the contracts to various provisions limiting the scope of liability and damages among them for the types of claims asserted by FLNG, including that FLNG bears the risk of loss after substantial completion of each train unless the Work is Defective, in which case FLNG has a right to Corrective Work under the contracts' 18-month warranty provision. However, as noted, ZII's Work was not the cause of FLNG's harm, and the warranty period expired prior to the motor's failure in January 2024. Moreover, the contracts contain other damage limitations provisions that limit ZII's liability to FLNG's insurance deductible in the amount of $1,000,000 per occurrence. Thus, the Proofs of Claim against ZII are subject to disallowance on the merits.

5. Finally, because the Proofs of Claim are unenforceable against ZII, they are also unenforceable against ZHI as guarantor, as FLNG does not assert any other claims against ZHI independent of its guaranty of ZII's performance of its contract obligations.

Relief Requested

6. By this Objection, the Debtors seek entry of an order, substantially in the form attached hereto (the "**Proposed Order**") (i) disallowing and expunging the Proofs of Claim in their entirety and (ii) granting such other and further relief as the Court deems just and proper.

Jurisdiction, Venue, and Predicates for Relief

7. The United States Bankruptcy Court for the Southern District of Texas (the "**Court**") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(B) and this Court has constitutional authority to enter a final order because the matter involves allowance or disallowance of claims against the estate.[3]

8. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

[3] To the extent the Court does not have constitutional authority to enter a final order in this matter, the Debtors confirm their consent to the entry of a final order by the Court.

9. The predicates for the relief requested herein are sections 105(a), 502(b), and 558 of title 11 of the United States Code (the "**Bankruptcy Code**"), rule 3007 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and rule 3007-1 of the Bankruptcy Local Rules for the Southern District of Texas (the "**Bankruptcy Local Rules**").

Background

I. General Background

10. On May 21, 2024 (the "**Petition Date**"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing the above-captioned chapter 11 cases. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These chapter 11 cases are being jointly administered pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these chapter 11 cases. On June 4, 2024, the Office of the United States Trustee for the Southern District of Texas (the "**U.S. Trustee**") appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the "**Committee**") [Docket No. 176].

11. A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to these chapter 11 cases, is set forth in the *Declaration of Mohsin Y. Meghji in Support of Debtors' Petitions and Requests for First Day Relief* [Docket No. 7].

12. On July 16, 2024, the Debtors filed their Schedules of Assets and Liabilities and Statements of Financial Affairs (collectively, the "**Schedules and Statements**") [Docket Nos. 510–531]. On August 30, 2024, several of the Debtors filed amendments to their Schedules and Statements [Docket Nos. 855–865].

13. On July 26, 2024, the Court entered the *Order (I) Setting Bar Dates for Filing Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing*

Amended Schedules Bar Date and Rejection Damages Bar Date, (III) Approving the Form and Manner for Filing Proofs of Claim, Including Section 503(b)(9) Requests, (IV) Approving Notice of Bar Dates, and (V) Granting Related Relief [Docket No. 636] (the "**Bar Date Order**"). The Bar Date Order established September 16, 2024, at 5:00 p.m. (prevailing Central Time) as the deadline for all non-governmental entities holding or wishing to assert a "claim" (as defined in section 101(5) of the Bankruptcy Code) against any of the Debtors that arose before the Petition Date to file proof of such claim (the "**General Bar Date**"). The bar date for claims related to the amended Schedules and Statements is October 4, 2024, at 5:00 p.m. (prevailing Central Time) (the "**Supplemental Bar Date**"). The deadline for all governmental entities holding or wishing to assert a claim against any of the Debtors that arose prior to the Petition Date to file proof of such claim is November 18, 2024, at 5:00 p.m. (prevailing Central Time) (the "**Governmental Bar Date**").

II. The EPC Contracts Between FLNG and the JV Partners

14. In 2013 and 2015, Plaintiffs entered into three separate engineering, procurement, construction, pre-commissioning, commissioning, start-up, and testing service contracts with ZII, CB&I, and, for the third contract only, also with Chiyoda to develop three processing units, also known as trains, and common infrastructure on a fixed-price, turnkey basis for use in liquified natural gas exportation at the Facility (collectively, the "**EPC Contracts**"). The portions of each EPC Contract relevant to this dispute are virtually identical.[4]

[4] Copies of the EPC Contracts (without attachments) are attached to the Proofs of Claim. *See* Claim Nos. 1443 and 1501, filed by FLNG Liquefaction, LLC, at Ex. C (EPC Contract for Train 1); Claim Nos. 1499 and 1502, filed by FLNG Liquefaction 2, LLC, at Ex. C (EPC Contract for Train 2); Claim Nos. 1500 and 1523, filed by FLNG Liquefaction 3, LLC, at Ex. C (EPC Contract for Train 3). A sealed copy of the Train 3 EPC Contract with attachments is attached as Exhibit A to CB&I's motions to dismiss filed in Adv. Pro. No. 24-03189 [Docket No. 13-1] and Adv. Pro. No. 24-03190 [Docket No. 13-1].

15. Each of the three trains uses three 75 Mega-Watt (MW) motors manufactured by General Electric (GE); each motor in turn powers three propane and mixed-refrigerant compressors. However, for Trains 1 and 2, the ZII and CB&I joint venture ("**ZII/CB&I JV**") recommended motors manufactured by Siemens rather than by GE. As part of the procurement process, ZII/CB&I JV conducted a technical evaluation of supplier proposals for the Main Refrigeration Compressor (MRC) systems for FLNG setting forth ZII/CB&I JV's justification for its recommendation of Siemens motors. Biediger Decl., Ex. 1 (Engineering Evaluation). In its engineering evaluation, ZII/CB&I JV observed that the Siemens motors had a better design and that "there [was] some possibility that problems [would] occur during manufacturing or testing" of the compressor motors due to their complexity, and that "the risk [could] be reduced via selection of the Siemens LCI offering." *Id.* at 23. ZII/CB&I JV found "significant difference in the strength of references between Siemens and GE for motors" and noted that "Siemens has built well over 50 such motors" whereas GE had only built two. *Id.* at 15. Based on its technical evaluation, ZII/CB&I JV concluded that "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," adding that the recommendation was "geared towards reducing the overall risk for the project. . . ." *Id.* at 2.

16. ZII/CB&I JV's recommendation of Siemens motors was formalized in a letter to FLNG on February 14, 2014, wherein it was noted that the proven capabilities of Siemens's motors were "based on previous fabrication of this world-class size equipment – mechanical and electrical." Biediger Decl., Ex. 2 (February 14, 2014 Letter).

17. FLNG chose to override ZII/CB&I JV's recommendation and instructed ZII/CB&I JV to proceed with the GE motors. In a letter dated February 21, 2014, FLNG's project director

instructed ZII/CB&I JV in writing to "[p]urchase[] the Main Refrigerant Compressors as proposed by General Electric." Biediger Decl., Ex. 3 (February 21, 2014 Letter). As instructed, ZII/CB&I JV procured and installed the GE motors into Trains 1 and 2, and later ZII, CB&I, and Chiyoda did the same for Train 3. Biediger Decl. ¶ 11.

18. The EPC Contracts pursuant to which the motors were installed were a product of negotiations between highly sophisticated entities represented by able, experienced counsel, wherein the parties agreed to a detailed, comprehensive structure and extensive set of provisions governing the scope of liability and damages between and among them for claims and losses. The EPC Contracts exclusively define the relationship between the JV Partners and FLNG, including the Scope of Work, which is set forth in Section 3.1.A of the EPC Contracts and Attachment A thereto.

19. Section 8.2.B of the EPC Contracts addresses risk of loss after substantial completion and provides:

> **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.

Train 3 EPC Contract § 8.2.B (emphasis added).

20. Section 8.2B does have an exception for any obligations the JV may have with respect to Defective Work or Corrective Work, which are defined under Article 12 of the EPC Contracts, titled "Warranty and Correction of Work". Section 12.1D of the EPC Contracts, titled "Exceptions to Warranty," provides that "[t]he Warranty excludes remedy." EPC Contracts § 12.1D. Section 12.3 of the EPC Contracts, titled "Correction of Work After Substantial

Completion" states that, "If, during the Defect Correction Period, any Work is found to be Defective, Contractor shall, at its sole cost and expense, promptly and on an expedited basis correct such Defective Work." EPC Contracts § 12.3.

21. The EPC Contracts for each train also contained a Defect Correction Period for the applicable parties' Work. The Defect Correction Period extended eighteen months from the Substantial Completion Date, as defined by each EPC Contract, which occurred prior to commissioning and the commencement of commercial operations. EPC Contracts § 1.1, at 5. The three trains became operational and began exporting liquified natural gas in December 2019 (Train 1), January 2020 (Train 2), and May 2020 (Train 3). *See* Claim Nos. 1443, 1499, 1500, 1501, 1502, 1523, Ex. B (hereinafter, "**FLNG Original Pet.**"), ¶ 17. Thus, the Defect Correction Period for Trains 1, 2, and 3, respectively, expired no later than June 2021, July 2021, and November 2021.

22. Further, Article 20 of the EPC Contracts addresses "LIMITATION OF LIABILITY." In Section 20.5, titled "Consequential Damages", the parties agreed that neither Owner (FLNG) nor Contractor (the JV Partners) shall be liable to each other under the EPC Contracts or under any cause of action related to the subject matter of the EPC Contracts for any incidental or consequential losses or damages, including for "LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES, . . . OR BUSINESS INTERRUPTIONS," and Owner and Contractor "WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES":

> 20.5 **Consequential Damages**. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR CONTRACTOR SHALL BE LIABLE TO EACH OTHER UNDER THIS AGREEMENT OR UNDER ANY CAUSE OF ACTION RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY,

> PRODUCTS LIABILITY, INDEMNITY, CONTRIBUTION, OR ANY OTHER CAUSE OF ACTION FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF PROFITS, USE, OPPORTUNITY, REVENUES, FINANCING, BONDING CAPACITY, OR BUSINESS INTERRUPTIONS . . . AND OWNER AND CONTRACTOR ON BEHALF OF THEMSELVES HEREBY WAIVE AND RELEASE EACH OTHER FROM ALL SUCH LOSSES AND DAMAGES.

EPC Contracts § 20.5 (emphasis and capitalization in original).

23. Additionally, pursuant to Section 20.2 of the EPC Contracts, after substantial completion, ZII is liable only for Owner's insurance deductible in the amount of $1,000,000 per occurrence, with the exception for correction of work "mechanically or structurally" connected to "Defective Work" under Article 12 Warranties. EPC Contracts § 20.2.

24. The EPC Contracts are governed by Texas law. EPC Contracts § 21.9.

III. The Incident and Subsequent FLNG Contract Litigation

25. Several years later, on January 17, 2024, the GE motor on Train 3 allegedly "tripped" and remained offline due to an alleged electrical short within a "non-accessible portion" of the motor caused by loose hardware (bolts, nuts, and washers) that dislodged and fell into the motor windings. FLNG Original Pet. ¶ 46. FLNG further claims that the remaining motors in Train 3, along with all of the motors in Trains 1 and 2, would likely suffer from the same defects. *Id.* ¶¶ 50–54.

26. On April 23, 2024, FLNG brought suit against ZII and the other two JV Partners alleging breach of the EPC Contracts (Case No. 2024-26036 (Tex. Dist. Ct. Apr. 23, 2024)) (the "**FLNG Contract Litigation**"). In its original petition, FLNG alleged that the JV Partners breached the EPC Contracts by causing or contributing to the defects in the trains' liquified natural gas compression motors that caused one of the motors to fail in January 2024 (years after the equipment was put into service and long after any warranty period on the JV Partners' work had expired). FLNG Original Pet. ¶¶ 45–58. FLNG seeks damages, interest, costs, and attorneys' fees

in an unspecified amount. *Id.* ¶¶ 63, 66. FLNG also seeks damages for lost profits alleging that the JV Partners' acts and omissions constitute gross negligence.

27. The FLNG Contract Litigation was subsequently removed to the United States District Court for the Southern District of Texas and referred to this Court, where it is currently pending under Adv. Pro. No. 24-03195.

IV. ZII's Motion to Dismiss the FLNG Contract Litigation

28. On October 18, 2024, Debtor ZII filed a motion to dismiss the FLNG Contract Litigation to the extent it seeks recovery for lost profits and other consequential damages [Adv. Pro. No. 24-03195, Docket No. 39] (the "**Motion to Dismiss**"). ZII argues that the parties expressly waived consequential damages in Section 20.5 of the EPC Contracts and that this waiver is valid under applicable Texas law. *See generally id.*

V. FLNG's Proofs of Claim

29. On September 13, 2024, FLNG filed six substantially identical Proofs of Claim against ZII and ZHI as guarantor of ZII's obligations under the EPC Contracts. *See* Claim Nos. 1443 and 1501, filed by FLNG Liquefaction, LLC; Claim Nos. 1499 and 1502, filed by FLNG Liquefaction 2, LLC; Claim Nos. 1500 and 1523, filed by FLNG Liquefaction 3, LLC. In the Proofs of Claim, FLNG assert unliquidated general unsecured claims based solely on the allegations set forth in the FLNG Contract Litigation (the "**FLNG Contract Claims**"). *See generally id.*

Argument

A. Applicable Standard

30. Section 502(a) of the Bankruptcy Code provides, in pertinent part, that "[a] claim or interest, proof of which is filed under section 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). Further, section 502(b)(1) of the

Bankruptcy Code provides that a court "shall determine the amount of such claim . . . as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—such claim is unenforceable against the debtor and the property of the debtor, under any agreement or applicable law." 11 U.S.C. §502(b)(1). This statutory exception to the allowance of a claim is "generally complemented by § 558, which provides that '[t]he estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of fraud, usury, and other personal defenses.'" *In re W.R. Grace & Co.*, 626 B.R. 217, 235 (Bankr. D. Del. 2021) (quoting 11 U.S.C. § 558).

31. As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes prima facie evidence of the validity and the amount of the claim under section 502(a) of the Bankruptcy Code. *See, e.g.*, *In re Jack Kline Co., Inc.*, 440 B.R. 712, 742 (Bankr. S.D. Tex. 2010). However, a proof of claim loses the presumption of prima facie validity under Bankruptcy Rule 3001(f) if an objecting party refutes at least one of the allegations that is essential to the claim's legal sufficiency. *See In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988). Once such an allegation is refuted, the burden reverts to the claimant to prove the validity of its claim by a preponderance of the evidence. *See id.* Despite this shifting burden during the claim objection process, "the ultimate burden of proof always lies with the claimant." *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15 (2000)).

32. Where a claim is based entirely on pending litigation against the debtor, the claim is unenforceable against the debtor if the underlying litigation is dismissed or the statute of limitation with respect to the litigation claims has run. *See, e.g.*, *In re W.R. Grace & Co.*, 626 B.R. 217, 247 (Bankr. D. Del. 2021) (holding that a proof of claim based on negligence and strict

products liability theories had to be disallowed as unenforceable against the debtor because related state court causes of action were dismissed and relevant statutes of limitation had run).

B. The Proofs of Claim Should Be Disallowed and Expunged

33. The Court should disallow and expunge the Proofs of Claim to the extent they seek lost profit and other consequential damages as unenforceable against ZII because FLNG expressly waived the right to seek such damages, as set forth more fully in the Motion to Dismiss. Furthermore, the FLNG Contract Claims are otherwise meritless, as ZII has at least two common-law and contractual defenses. And because ZII has no liability in connection with the FLNG Contract Claims, ZHI as the guarantor likewise has no liability on those claims.

(1) The FLNG Contract Claims Cannot Survive the Motions to Dismiss to the Extent FLNG Seeks Damages for Lost Profits and Other Consequential Damages

34. As ZII states in its Motion to Dismiss, which the Debtors incorporate by reference in its entirety, pursuant to Section 20.5 of the EPC Contracts, FLNG waived any claims for lost profits or other consequential damages.

35. "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) (noting that "such waivers are common between commercial parties"). Section 2.719(c) of the Texas Business and Commerce Code expressly provides:

> Consequential damages may be limited or excluded unless the limitation or exclusion is unconscionable. Limitation of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation of damages where the loss is commercial is not.

Tex. Bus. & Com. Code § 2.719(c) (emphasis added).

36. "Accordingly, the ***sole*** way to avoid enforcement of an agreement to limit or exclude consequential damages is to show that the waiver was unconscionable." *Id.* (citing § 2.719(c); emphasis added); *see Bray Int'l, Inc. v. Computer Assocs. Int'l, Inc.*, No. CIV H-02-

0098, 2005 WL 3371875, at *4 (S.D. Tex. Dec. 12, 2005) ("The Texas UCC could not be clearer that the only exception to the enforcement of [a consequential damages waiver] comes into play if the clause or contract is unconscionable.").

37. FLNG admits that the EPC Contracts—in their entirety—"constitute valid and enforceable contracts." FLNG Original Pet. ¶ 60 ("Plaintiffs entered into the EPC Contracts with Defendants, which constitute valid and enforceable contracts."). FLNG further admits that the alleged loss at issue is commercial. *See id.* ¶ 45 (alleging that "the defects in Defendants' work" were discovered "after Trains 1, 2, and 3 began commercial operations"). Accordingly, Section 20.5's waiver and release of consequential damages is not prima facie unconscionable under § 2.719(c).

38. Nor is there any other basis to render Section 20.5 unconscionable. "'Generally, contracts are rendered unconscionable by procedural abuse arising in contract formation, such as the inability of one party to bargain; and by abuse concerning substantive contract terms, such as whether printed terms of a form contract are so one-sided as to be unreasonable.'" *Safety Vision*, 2024 WL 3094649, at *5 (quoting *Lindemann v. Eli Lilly & Co.*, 816 F.2d 199, 203 (5th Cir. 1987)). "Notably, 'the principle of unconscionability is one of preventing oppression and unfair surprise, *not* the disturbance of allocation of risks because of superior bargaining power.'" *Id.* (quoting *Lindemann*, 816 F.2d at 204) (italics in original).

39. The principle of unconscionability has no application to the EPC Contracts, which were heavily negotiated by highly sophisticated commercial entities and their able lawyers. *See id.*, at *6 (finding that "a contract for a custom designed commercial product where both parties are sophisticated business entities" was not unconscionable). The EPC Contracts are "not the sort of 'contract for consumer goods entered into by a naïve and credulous member of the public' that

tends to lead to unconscionable terms.'" *Id.* (quoting *Eastman Chem. Co. v. Niro, Inc.*, 80 F. Supp. 2d 712, 719 (S.D. Tex. 2000)).

40. Thus, Section 20.5 is not unconscionable—to the contrary, it is "exactly the sort of risk allocation provision that is common in commercial contracts." *Safety Vision*, 2024 WL 3094649, at *6. Consequently, Section 20.5 of the EPC Contracts is valid and enforceable under section 2.719(c) of the Texas Business and Commerce Code and bars FLNG's claim for consequential damages.

41. Because FLNG's claim rests on a legally invalid theory, it must be dismissed and is, therefore, unenforceable against the Debtors. *See Flynn*, 605 F. Supp. 2d at 820; *see also Seno Med. Instruments*, 2018 WL 5811497, at *4 (recommending dismissal under Rule 12(b)(6) of counterclaim for consequential damages because the parties' agreement included a consequential damage waiver).

(2) The FLNG Contract Claims are Otherwise Meritless Because the Debtors Have Common-Law and Contractual Defenses

42. The FLNG Contract Claims are also meritless in their entirety due to ZII's common-law and contractual defenses.[5]

i. The motor failure was not caused by ZII or other JV Partners

43. The motor failure was not caused by the JV Partners. Rather, the root cause of the failure was a manufacturing defect by GE in the selection and installation of hardware (bolts, nuts, washers) that did not comply with GE's own internal specifications. GE's manufacturing defect could not have been discovered through ZII's inspection or other work on the project. Biediger

[5] The Debtors' investigation of potential defenses is ongoing, and the Debtors expressly reserve the right to supplement this Objection as it relates to its defenses or otherwise to the merits of the FLNG Contract Claims.

Decl. ¶ 11. The JV Partners did not engineer or design the motor or its component parts and their only involvement was evaluating the GE system. *Id.*

44. However, the selection of the GE compressor motors was made by FLNG against the JV Partners' recommendation. ZII/CB&I JV conducted an engineering evaluation of compression system options for FLNG, wherein it specifically identified risks that due to GE's lack of experience there could be manufacturing problems. *Id.* ¶ 8. ZII/CB&I JV recommended the system made by Siemens over GE based on the reputation of its motors and on Siemens' superior experience in manufacturing motors of this size and complexity. *Id.*

45. Given the lack of causation between the JV Partners' work and the motor failure, ZII is not liable for damages caused by the failure. *See Houle v. Casillas*, 594 S.W.3d 524, 556 (Tex. App.—El Paso 2019, no pet.) (recognizing that the damages element of a breach of contract claim "encompasses a causation requirement. Specifically, the evidence must show that the damages are the natural, probable, and foreseeable consequence of the defendant's conduct.") (citations omitted); *Velvet Snout, LLC v. Sharp*, 441 S.W.3d 448 (Tex. App.—El Paso 2014, no pet.) ("The absence of this causal connection between the alleged breach [of contract] and the alleged damages will preclude recovery.").

ii. The EPC Contracts limit the scope of liability and damages among the parties for the type of claims asserted by FLNG

46. The parties agreed in the EPC Contract to various provisions limiting the scope of liability and damages among them for the types of claims asserted by FLNG, and those provisions relieve ZII of liability for the harm alleged by FLNG.

47. Specifically, Section 8.2.B of the EPC Contracts provides that FLNG as Owner bears the risk of loss after substantial completion of the project except to the extent the JV Partners have obligations with respect to Defective Work or Corrective Work. Thus, FLNG must establish

either a defined Defect in ZII's Work or a right to Corrective Work under the EPC Contracts' warranty provisions. However, as noted above, ZII's work was not the cause of FLNG's harm, and the 18-month warranty period for Trains 1, 2, and 3, respectively, expired no later than June 2021, July 2021, and November 2021.

48. Additionally, under the EPC Contracts, after substantial completion, ZII is liable only for FLNG's insurance deductible in the amount of $1,000,000 per occurrence. EPC Contracts § 20.2. While this provision contains an exception for work "mechanically or structurally" connected to Defective Work, this exception is not applicable because the cause of the GE motor failure was due to FLNG's and GE's actions and not Defective Work by Zachry.

49. Thus, the Proofs of Claim against ZII should be disallowed in their entirety.

(3) Because FLNG Has No Claims Against ZII, the FLNG Contract Claims Against ZHI Should Also Be Disallowed

50. Because the FLNG Contract Claims filed against ZHI are based entirely on ZHI's alleged guaranty of ZII's performance under the EPC Contracts, and because, as noted above, ZII has no liability in connection with the FLNG Contract Claims, any claims against ZHI related to the FLNG Contract Claims should similarly be disallowed. *HSBC Bank USA, Nat. Ass'n v. Calpine Corp.*, No. 07 CIV 3088 GBD, 2010 WL 3835200, at *9 (S.D.N.Y. Sept. 15, 2010) (disallowing a claim based on a joint and several unconditional guaranty and holding that "[t]he obligations of a guarantor depend . . . on the extent to which a debt remains outstanding according to the terms of an underlying contract" and that because the debtor had no liability, the debtor's guarantors had no liability as well).

51. For all of the foregoing reasons, the Proofs of Claim should be disallowed and expunged in their entirety because the underlying FLNG Contract Claims are unenforceable against ZII and ZHI.

Reservation of Rights

52. By this Objection, the Debtors object to the FLNG Contract Claims solely for the reasons identified therein. Regardless of whether one or more of the bases for objection stated herein is overruled, or otherwise not sustained, and regardless of whether the Motion to Dismiss is denied, the Debtors reserve the right to (i) amend, modify, or supplement this Objection, and to file additional objections to the FLNG Contract Claims on any basis; and/or (ii) seek estimation of the FLNG Contract Claims. Further, the Debtors reserve their rights to object to any proof of claim, including but not limited to the FLNG Contract Claims, on any grounds whatsoever at a later date, including, among other things, based on amount, priority, classification, or otherwise.

53. Nothing contained herein or any actions taken pursuant to such relief requested is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this Objection or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a waiver of any claims or causes of action which may exist against any creditor or interest holder; (f) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (h) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance of property of the Debtors' estates; or (i) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in this Objection are valid and the rights of all

parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

Notice

54. The Debtors will provide notice of this Motion to: (a) the United States Trustee for the Southern District of Texas; (b) counsel for the Committee; (c) the Prepetition Agent; (d) the United States Attorney's Office for the Southern District of Texas; (e) the state attorneys general for the states in which the Debtors operate; (f) the Internal Revenue Service; (g) counsel to FLNG; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002 and Bankruptcy Local Rule 9013-1(d). In light of the nature of the relief requested, no other or further notice need be provided.

No Previous Request

55. No previous request for the relief sought herein has been made by the Debtors to this Court or any other court.

Conclusion

56. For the foregoing reasons, the Debtors respectfully request that the Court enter the Proposed Order (i) disallowing and expunging the Proofs of Claim in their entirety pursuant to section 502(b)(1) of the Bankruptcy Court as unenforceable against the Debtors and (ii) granting such other and further relief as the Court deems just and proper.

Dated: October 18, 2024
Houston, Texas

/s/ Charles R. Koster

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Counsel to the Debtors and
Debtors in Possession

Certificate of Service

I certify that on October 18, 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