

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(MARK ONE)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31 , 2023

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission File No. 001-36842



NEXTDECADE CORPORATION

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

46-5723951

(I.R.S. Employer Identification No.)

1000 Louisiana Street, Suite 3900

Houston , Texas

(Address of principal executive offices)

77002

(Zip code)

Registrant's telephone number, including area code: (713) 574-1880

Securities registered pursuant to Section 12(b) of the Act:

Title of each Class:	Trading Symbol:	Name of each exchange on which registered:
Common stock \$0.0001 par value	NEXT	The Nasdaq Stock Market LLC

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes ☐ No ☒

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

Indicate by check mark whether the registrant has submitted electronically, every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common equity held by non-affiliates of the registrant was approximately \$ 376.4 million as of

June 30, 2023 (based on the closing price of the registrant's common stock on June 30, 2023 of \$8.21 per share).

256,708,470 shares of the registrant's Common Stock, \$0.0001 par value, were outstanding as of March 4, 2024.

Documents incorporated by reference: Portions of the definitive proxy statement for the registrant's Annual Meeting of Stockholders (to be filed within 120 days of the close of the registrant's fiscal year) are incorporated by reference into Part III of this Form 10-K.

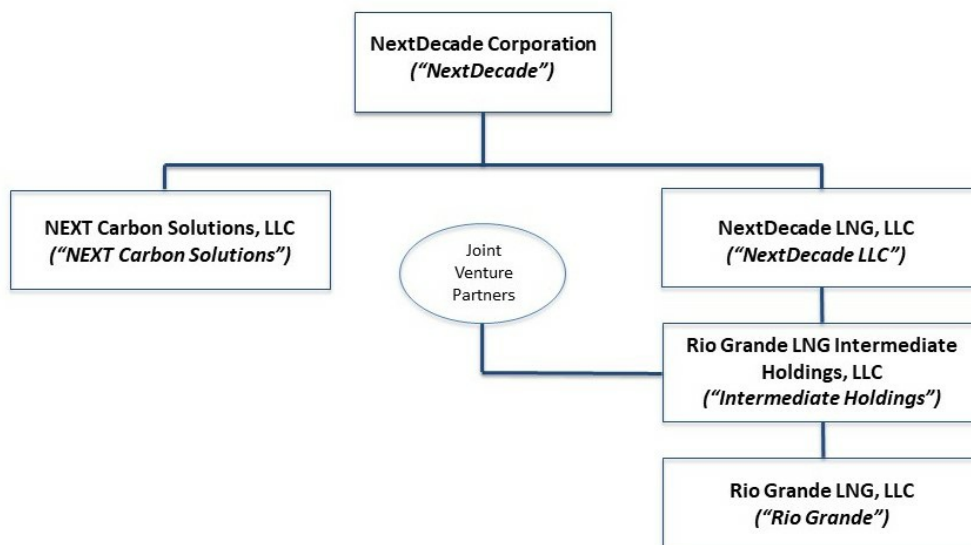
NEXTDECADE CORPORATION

TABLE OF CONTENTS

	<u>Page</u>
<u>Part I</u>	
Item 1. Business	8
Item 1A. Risk Factors	13
Item 1B. Unresolved Staff Comments	33
Item 1C. Cybersecurity	33
Item 2. Properties	34
Item 3. Legal Proceedings	34
Item 4. Mine Safety Disclosures	34
<u>Part II</u>	
Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	35
Item 6. [Reserved]	35
Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations	36
Item 7A. Quantitative and Qualitative Disclosures About Market Risks	45
Item 8. Financial Statements and Supplementary Data	46
Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure	68
Item 9A. Controls and Procedures	68
Item 9B. Other Information	68
Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections	68
<u>Part III</u>	
Item 10. Directors, Executive Officers and Corporate Governance	69
Item 11. Executive Compensation	69
Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	69
Item 13. Certain Relationships and Related Transactions, and Director Independence	69
Item 14. Principal Accounting Fees and Services	69
<u>Part IV</u>	
Item 15. Exhibits and Financial Statement Schedules	70
Item 16. Form 10-K Summary	75
Signatures	76

Organizational Structure

The following diagram depicts our abbreviated organizational structure as of December 31, 2023 with references to the names of certain entities discussed in this Annual Report.



Unless the context requires otherwise, references to "NextDecade," the "Company," "we," "us" and "our" refer to NextDecade Corporation and its consolidated subsidiaries.

Cautionary Statement Regarding Forward-Looking Statements

This Annual Report on Form 10-K contains certain statements that are, or may be deemed to be, “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements other than statements of historical fact contained in this Annual Report on Form 10-K, including statements regarding our future results of operations and financial position, strategy and plans, and our expectations for future operations and economic performance, are forward-looking statements. The words “anticipate,” “contemplate,” “estimate,” “expect,” “project,” “plan,” “intend,” “believe,” “seek,” “may,” “might,” “will,” “would,” “could,” “should,” “can have,” “likely,” “continue,” “design,” “assume,” “budget,” “forecast,” “target” and other words and terms of similar expressions, are intended to identify forward-looking statements.

We have based these forward-looking statements on assumptions and analysis made by us in light of our current expectations, perceptions of historical trends, current conditions and projections about future events and trends that we believe may affect our financial condition, results of operations, strategy, short-term and long-term business operations and objectives and financial needs.

Although we believe that the expectations reflected in our forward-looking statements are reasonable, actual results could differ from those expressed in our forward-looking statements. Our future financial position and results of operations, as well as any forward-looking statements are subject to change and inherent risks and uncertainties, including those described in the section titled “Risk Factors” in this Annual Report on Form 10-K. You should consider our forward-looking statements in light of a number of factors that may cause actual results to vary from our forward-looking statements including, but not limited to:

- our progress in the development of our liquefied natural gas (“LNG”) liquefaction and export project and any carbon capture and storage projects we may develop (“CCS projects”) and the timing of that progress;
- the timing and cost of the development, construction and operation of the first three liquefaction trains and related common facilities (“Phase 1”) of the multi-plant integrated natural gas and liquefaction and LNG export terminal facility to be located at the Port of Brownsville in southern Texas (the “Rio Grande LNG Facility”);
- the availability and frequency of cash distributions available to us from our joint venture which owns Phase 1 of the Rio Grande LNG Facility;
- the timing and cost of the development of subsequent liquefaction trains at the Rio Grande LNG Facility;
- the ability to generate sufficient cash flow to satisfy Rio Grande's significant debt service obligations or to refinance such obligations ahead of their maturity;
- restrictions imposed by NextDecade's or Rio Grande's debt agreements that limit flexibility in operating its business;
- increases in interest rates increasing the cost of servicing Rio Grande's indebtedness;
- our reliance on third-party contractors to successfully complete the Rio Grande LNG Facility, the pipeline to supply gas to the Rio Grande LNG Facility and any CCS projects we develop;
- our ability to develop our NEXT Carbon Solutions business through implementation of our CCS projects;
- our ability to secure additional debt and equity financing in the future to complete the Rio Grande LNG Facility and other CCS projects on commercially acceptable terms and to continue as a going concern;
- the accuracy of estimated costs for the Rio Grande LNG Facility and CCS projects;
- our ability to achieve operational characteristics of the Rio Grande LNG Facility and CCS projects, when completed, including amounts of liquefaction capacities and amount of CO₂ captured and stored, and any differences in such operational characteristics from our expectations;
- the development risks, operational hazards and regulatory approvals applicable to our LNG and carbon capture and storage development, construction and operation activities and those of our third-party contractors and counterparties;
- technological innovation which may lessen our anticipated competitive advantage or demand for our offerings;
- the global demand for and price of LNG;

- the availability of LNG vessels worldwide;
- changes in legislation and regulations relating to the LNG and carbon capture industries, including environmental laws and regulations that impose significant compliance costs and liabilities;
- scope of implementation of carbon pricing regimes aimed at reducing greenhouse gas emissions;
- global development and maturation of emissions reduction credit markets;
- adverse changes to existing or proposed carbon tax incentive regimes;
- global pandemics, including the 2019 novel coronavirus (“COVID-19”) pandemic, the Russia-Ukraine conflict, the conflict in the Middle East, other sources of volatility in the energy markets and their impact on our business and operating results, including any disruptions in our operations or development of the Rio Grande LNG Facility and the health and safety of our employees, and on our customers, the global economy and the demand for LNG or carbon capture;
- risks related to doing business in and having counterparties in foreign countries;
- our ability to maintain the listing of our securities on the Nasdaq Capital Market or another securities exchange or quotation medium;
- changes adversely affecting the businesses in which we are engaged;
- management of growth;
- general economic conditions, including inflation and rising interest rates;
- our ability to generate cash; and
- the result of future financing efforts and applications for customary tax incentives.

Should one or more of the foregoing risks or uncertainties materialize in a way that negatively impacts us, or should the assumptions underlying our forward-looking statements prove incorrect, our actual results may vary materially from those anticipated in our forward-looking statements, and our business, financial condition and results of operations could be materially and adversely affected.

You should not rely upon forward-looking statements as predictions of future events. In addition, neither we nor any other person assumes responsibility for the accuracy and completeness of any of these forward-looking statements. Except as required by applicable law, we do not undertake any obligation to publicly correct or update any forward-looking statement.

Please read “Risk Factors” contained in this Annual Report on Form 10-K for a more complete discussion of the risks and uncertainties mentioned above and for a discussion of other risks and uncertainties. All forward-looking statements attributable to us are expressly qualified in their entirety by these cautionary statements and hereafter in our other filings with the Securities and Exchange Commission (the “SEC”) and public communications. You should evaluate all forward-looking statements made by us in the context of these risks and uncertainties.

Summary of Risk Factors

We believe that the principal risks associated with our business, and consequently the principal risks associated with an investment in our common stock, are as follows:

Risks Related to our Business and the Industry in which we Operate

- The substantial amount of indebtedness incurred to finance construction of Phase 1 of the Rio Grande LNG Facility may adversely affect Rio Grande's cash flow and its ability to operate its business, remain in compliance with debt covenants and make payments on its indebtedness.
- Restrictions in debt agreements may prevent certain beneficial transactions.
- Conducting a portion of our operations through joint ventures in which we do not have 100% ownership interest, and which are not operated solely for the benefit of our stockholders, exposes us and our stockholders to risks and uncertainties, many of which are outside of our control.
- Our projects are in the development and construction phases, and the success of such projects is unpredictable; as such, positive cash flows and even revenues will be several years away, if they occur at all.
- We will be required to seek additional debt and equity financing in the future to complete future phases of the Rio Grande LNG Facility and the development of CCS projects and may not be able to secure such financing on acceptable terms, or at all.
- There is substantial doubt about our ability to continue as a going concern.
- The Rio Grande LNG Facility's operations will be substantially dependent on the development and operation of the Pipeline by Enbridge and its affiliates.
- We may be subject to risks related to doing business in, and having counterparties based in, foreign countries.
- Costs for the Rio Grande LNG Facility and CCS projects are subject to various factors. We will be dependent on third-party contractors for the successful completion of the Rio Grande LNG Facility and CCS projects, and these contractors may be unable to complete the Rio Grande LNG Facility or CCS projects or may build a non-conforming Rio Grande LNG Facility or CCS projects.
- Our ability to generate cash is substantially dependent upon us entering into satisfactory contracts with third parties and the performance of those third parties under those contracts.
- Our exposure to the performance and credit risks of counterparties may adversely affect our operating results, liquidity and access to financing.
- Our construction and operations activities will be subject to a number of development risks, operational hazards, regulatory approvals and other risks which may not be fully covered by insurance, and which could cause cost overruns and delays that could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.
- Failure of exported LNG to be a competitive source of energy for international markets could adversely affect our customers and could materially and adversely affect our business, contracts, financial condition, operating results, cash flow, liquidity and prospects.
- Decreases in the global demand for and price of natural gas (versus the price of imported LNG) could lead to reduced development of LNG projects worldwide.
- There may be shortages of LNG vessels worldwide, which could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.
- The operation of the Rio Grande LNG Facility and any CCS project may be subject to significant operating hazards and uninsured risks, one or more of which may create significant liabilities and losses that could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.

Risks Related to Governmental Regulation

- The construction and operation of the Rio Grande LNG Facility remains subject to further governmental approvals, and some approvals may be subject to further conditions, review and/or revocation and other legal and regulatory risks, which may result in delays, increased costs or decreased cash flows.

- The Rio Grande LNG Facility will be subject to a number of environmental laws and regulations that impose significant compliance costs, and existing and future environmental and similar laws and regulations could result in increased compliance costs, liabilities or additional operating restrictions.
- Changes in legislation and regulations or interpretations thereof, such as those relating to the importation and exportation of LNG and incentives for reduction of emissions, could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects and could cause additional expenditures and delays in connection with the Rio Grande LNG Facility and CCS projects and their construction.

Risks Related to our Securities

- Raising additional capital may cause dilution to existing stockholders, restrict our operations or require us to relinquish rights. Additionally, sales of a substantial number of shares of our common stock or other securities in the public market could cause our stock price to fall.
- Our largest stockholders will substantially influence our Company for the foreseeable future, including the outcome of matters requiring shareholder approval, and such control may prevent you and other stockholders from influencing significant corporate decisions and may result in conflicts of interest that could cause our stock price to decline.
- Increasing attention to environmental, social and governance matters may impact our business, financial results or stock price and climate change concerns may pose challenges to our operating model.

Item 1. Business

Company Overview and Formation

NextDecade Corporation, a Delaware corporation, is a Houston-based energy company primarily engaged in construction and development activities related to the liquefaction of natural gas and sale of LNG and the capture and storage of CO₂ emissions. We are constructing and developing a natural gas liquefaction and export facility located in the Rio Grande Valley in Brownsville, Texas (the "Rio Grande LNG Facility"), which currently has three liquefaction trains and related infrastructure under construction. The Rio Grande LNG Facility has received Federal Energy Regulatory Commission ("FERC") approval and Department of Energy ("DOE") FTA and non-FTA authorizations for the construction of five liquefaction trains and LNG exports totaling 27 million tonnes per annum ("MTPA"). Liquefaction trains 1 through 3 and related infrastructure are currently under construction and liquefaction trains 4 and 5 at the Rio Grande LNG Facility are currently in development. We are also developing a planned carbon capture and storage ("CCS") project at the Rio Grande LNG Facility and other potential CCS projects that would be located at third-party industrial facilities through our NEXT Carbon Solutions business.

We were incorporated in Delaware on May 21, 2014, and were formed for the purpose of acquiring, through a merger, share exchange, asset acquisition, stock purchase, recapitalization, reorganization, or other similar business combination, one or more businesses or entities. On July 24, 2017, one of our subsidiaries merged with and into NextDecade LLC, an LNG development company founded in 2010 to develop LNG export projects and associated pipelines. Prior to the merger with NextDecade LLC, we had no operations and our assets consisted of cash proceeds received in connection with our initial public offering.

Our common stock trades on the Nasdaq Capital Market ("Nasdaq") under the symbol "NEXT."

Rio Grande

Through our partially owned subsidiary, Rio Grande, we are constructing the Rio Grande LNG Facility on the north shore of the Brownsville Ship Channel. The site is located on 984 acres of land which has been leased long-term and includes 15 thousand feet of frontage on the Brownsville Ship Channel. We believe the site is advantaged due to its proximity to abundant natural gas resources in the Permian Basin and Eagle Ford Shale, access to an uncongested waterway for vessel loading, and location in a region that has historically been subject to fewer and less severe weather events relative to other locations along the US Gulf Coast. The Rio Grande LNG Facility has been approved by the FERC and authorized by the DOE to export up to 27 MTPA of LNG from up to five liquefaction trains.

In July 2023, Rio Grande commenced construction on the first three liquefaction trains and related infrastructure ("Phase 1") of the Rio Grande LNG Facility following a positive final investment decision ("FID") and the closing of project financing by Rio Grande, which owns Phase 1 of the Rio Grande LNG Facility. Construction will be completed by Bechtel Energy Inc. ("Bechtel") under fully wrapped, lump-sum turnkey engineering, procurement, and construction ("EPC") contracts, and the facility will utilize APCI liquefaction technology, which is the predominant liquefaction technology utilized globally.

Pursuant to a joint venture agreement with equity partners for ownership of Rio Grande, we expect to receive up to approximately 20.8% of distributions of available cash generated from Phase 1 operations; provided, that a majority of the cash distributions to which we are otherwise entitled will be paid for any distribution period only after our equity partners receive an agreed distribution threshold in respect of such distribution period and certain other deficit payments from prior distribution periods, if any, are made.

Rio Grande has entered into long-term LNG Sale and Purchase Agreements ("SPAs") with nine creditworthy counterparties for aggregate volumes of approximately 16.2 MTPA of LNG, which is over 90% of the expected Phase 1 nameplate LNG production capacity. The SPAs have a weighted average term of 19.2 years. Under these SPAs, the customers will purchase LNG from Rio Grande for a price consisting of a fixed fee per MMBtu of LNG plus a variable fee per MMBtu of LNG, with the variable fees structured to cover the expected cost of natural gas plus fuel and other sourcing costs to produce LNG. In certain circumstances, customers may elect to cancel or suspend deliveries of LNG cargoes, in which case the customers would still be required to pay the fixed fee with respect to cargoes that are not delivered. A portion of the fixed fee under each SPA will be subject to annual adjustment for inflation. The SPAs and contracted volumes to be made available under the SPAs are not tied to a specific train; however, the commencement of the term of each SPA is tied to a specified train.

Rio Grande's portfolio of LNG SPAs for Phase 1 of the Rio Grande LNG Facility is as follows:

Customer	Volume (mtpa)	Tenor (years)	Delivery Model ⁽¹⁾
TotalEnergies SE	5.4	20	FOB
Shell NA LNG LLC	2.0	20	FOB
ENN LNG Singapore Pte Ltd.	2.0	20	FOB
ENGIE S.A.	1.75	15	FOB
China Gas Hongda Energy Trading Co., LTD	1.0	20	FOB
Guangdong Energy Group	1.0	20	DES
Exxon Mobil LNG Asia Pacific	1.0	20	FOB
Galp Trading S.A.	1.0	20	FOB
Itochu Corporation	1.0	15	FOB
Total	16.15	19.2 years weighted average	

⁽¹⁾ FOB - free on board; DES - delivered ex-ship

Each of these SPAs is currently effective, and deliveries of LNG under these SPAs will commence on the respective Date of First Commercial Delivery ("DFCD"), which is primarily tied to the substantial completion or guaranteed substantial completion dates of specific trains as defined in each SPA. In aggregate, the approximately 14.65 MTPA of Phase 1 Henry Hub-linked SPAs have average fixed fees, unadjusted for inflation, totaling approximately \$1.8 billion expected to be paid annually.

Marketing of Uncontracted Volumes

Rio Grande expects to sell any commissioning LNG volumes and operational LNG volumes in excess of SPA volumes into the LNG market through spot, short-term, and medium-term agreements. Rio Grande has entered into certain time charter agreements and expects to enter into additional time charter agreements with vessel owners to provide shipping capacity for LNG sales related to its existing DES SPA, commissioning volumes, and expected portfolio volumes.

Engineering, Procurement and Construction ("EPC")

Rio Grande entered into fully wrapped, lump-sum turnkey contracts with Bechtel, a well-established and reputable LNG engineering and construction firm, for the engineering, procurement, and construction of Phase 1 at the Rio Grande LNG Facility, under which Bechtel has generally guaranteed cost, performance, and schedule. Under the Phase 1 EPC contracts, Bechtel is responsible for the engineering, procurement, construction, commissioning, and startup of three liquefaction trains and related infrastructure.

On July 12, 2023, Rio Grande issued final notice to proceed to Bechtel under the EPC contracts for Phase 1. Total expected capital costs for Phase 1 are estimated to be approximately \$18.0 billion, including estimated owner's costs, contingencies, and financing costs, and including amounts spent prior to FID under limited notices to proceed.

Natural Gas Transportation and Supply

Rio Grande has entered into a firm transportation agreement for capacity on the Rio Bravo Pipeline to transport natural gas feedstock to the Rio Grande LNG Facility. The Rio Bravo Pipeline is being developed and will be constructed and operated by a wholly owned subsidiary of Enbridge Inc. ("Enbridge"). The Rio Bravo Pipeline will provide Rio Grande access to purchase natural gas supplies in the Agua Dulce area and will connect to six regional intra and interstate pipelines, giving Rio Grande access to prolific gas production from the Permian Basin and Eagle Ford Shale and providing significant flexibility to obtain competitively priced natural gas feedstock.

The Rio Bravo Pipeline is under development and is expected to be constructed and completed prior to the start of commissioning of Train 1 at the Rio Grande LNG Facility. Rio Grande has also entered into an agreement for capacity on an interruptible basis with Enbridge's Valley Crossing Pipeline to provide redundant capacity for commissioning and operations.

We have proposed and are in the process of executing a substantial and diversified natural gas feedstock sourcing strategy to spread risk exposure across multiple contracts, counterparties, and pricing hubs. We expect to enter into gas supply arrangements with a wide range of suppliers, and we also expect to leverage trading platforms and exchanges to

lock in natural gas supply prices and/or hedge risk. Certain of our LNG offtake counterparties have the option to sell to Rio Grande some or all of the natural gas required to produce their respective contracted LNG volumes pursuant to structured options which define how much volume can be supplied and how much notice must be provided to switch to and from self-sourcing.

Final Investment Decision on Train 4 and Train 5 at the Rio Grande LNG Facility

We expect to make a positive final investment decision and commencement of construction of Train 4 and related infrastructure, and subsequently Train 5 and related infrastructure, at the Rio Grande LNG Facility, subject to, among other things, finalizing and entering into EPC contracts, entering into appropriate commercial arrangements, and obtaining adequate financing to construct each train and related infrastructure. We have commenced certain pre-FID activities for Train 4, including the Front-end Engineering and Design ("FEED") and EPC contract processes with Bechtel.

TotalEnergies SE ("TotalEnergies") has LNG purchase options of 1.5 MTPA for each of Train 4 and Train 5. If TotalEnergies exercises its LNG purchase options, we currently estimate that an additional approximately 3 MTPA of LNG must be contracted on a long-term basis for each of Train 4 and Train 5 prior to making a positive final investment decision for the respective train. We continue to advance commercial discussions with various potential counterparties and expect to finalize commercial arrangements for Train 4 in the coming months to support a positive final investment decision on Train 4.

We expect to finance construction of Train 4 and associated infrastructure utilizing a combination of debt and equity funding. The Company expects to enter into bank facilities for the debt portion of the funding. In connection with consummating the Rio Grande Phase 1 equity joint venture, our equity partners each have options to invest in Train 4 and Train 5 equity, which, if exercised, would provide approximately 60% of the equity funding required for each of Train 4 and Train 5. Inclusive of these options, we currently expect to fund 40% of the equity commitments for each of Train 4 and Train 5, and to have an initial economic interest of 40% in each of Train 4 and Train 5, increasing to 60% after our equity partners achieve certain returns on their investments in the respective train. We expect to undertake the financing process for Train 4 after the EPC contract and commercial arrangements are finalized.

Governmental Permits, Approvals and Authorizations

We are required to obtain governmental approvals and authorizations to implement our proposed business strategy, which includes the design, construction and operation of the Rio Grande LNG Facility and the export of LNG from the U.S. to foreign countries. The design, siting, construction and operation of LNG export facilities and the export of LNG is a regulated activity and is subject to Section 3 of the Natural Gas Act (the "NGA"). Federal law has bifurcated regulatory jurisdiction of LNG export activities. The FERC has jurisdiction to authorize the siting, construction and operation of LNG export facilities. The DOE has jurisdiction over the import and export of the natural gas commodity, including natural gas in the form of LNG. The FERC also has jurisdiction over the siting, construction and operation of interstate natural gas pipelines under Section 7 of the NGA and regulates interstate pipelines' rates and terms and conditions of service under Sections 4 and 5 of the NGA. In 2002, the FERC established a policy of not regulating the terms and conditions of service for LNG import or export facilities or requiring that LNG import or export facilities operate as "open access" facilities for all customers. The Energy Policy Act of 2005, which amended the NGA, codified this policy until January 1, 2015, and the FERC has not indicated that it intends to depart from its policy of not regulating the terms or conditions of service or requiring that LNG import or export facilities operate on an open access basis.

Although the FERC acts as the lead agency with jurisdiction over LNG import and export facilities, other federal and state agencies act as cooperating agencies, coordinating with the FERC to evaluate applications for LNG export facilities. These agencies include the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (the "PHMSA"), the U.S. Coast Guard (the "Coast Guard"), the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the International Boundary and Water Commission and other federal agencies with jurisdiction over potential environmental impacts of LNG export facility construction and operation. Certain federal laws, such as the Clean Water Act, the Clean Air Act and the Coastal Zone Management Act, delegate authority over certain actions to state agencies, like the Texas Commission on Environmental Quality and the Railroad Commission of Texas. In reviewing an application for an LNG import or export facility or an interstate natural gas pipeline, the FERC also works with these state agencies that have jurisdiction over certain aspects of LNG facility or interstate natural gas pipeline construction or operation.

In particular, the PHMSA has established safety standards for interstate natural gas pipelines and LNG facilities. Similarly, the Coast Guard has established safety regulations for marine operations at LNG facilities and the operation of LNG carriers. The FERC, the PHMSA and the Coast Guard entered into a Memorandum of Understanding in 2004 that establishes the FERC's primary role in evaluating LNG facility applications and defines the process for coordinating the review of an LNG import or export facility application with the PHMSA and the Coast Guard. In 2018, the FERC and the

PHMSA entered into a separate Memorandum of Understanding that establishes the process and timeline by which the PHMSA should determine whether an LNG facility will meet the PHMSA's LNG safety siting standards.

We have obtained all major permits required to build the Rio Grande LNG Facility and export LNG, including FERC approval and DOE FTA and non-FTA authorizations for the construction of five liquefaction trains and LNG exports totaling 27 MTPA.

On November 22, 2019, we received the Order from FERC authorizing the siting, construction and operation of the Rio Grande LNG Facility. On August 13, 2020, the FERC approved the change of the design for the Rio Grande LNG Facility from six trains to five trains. On September 22, 2021, Rio Grande received the U.S. Army Corps of Engineers Permit issued under CWA Section 404/RHA – Section 10.

On September 7, 2016, Rio Grande obtained an authorization for export of LNG to countries with which the U.S. has a Free Trade Agreement ("FTA") on its own behalf and as an agent for others for a term of 30 years. On February 10, 2020, the DOE issued its "Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations to Rio Grande" in DOE/FE Order No. 4492. In addition, on October 21, 2020, the DOE issued its Order Extending Export Term for Authorization to Non-Free Trade Agreement Nations through December 31, 2050.

Following receipt of the FERC Order, two requests for re-hearing were filed. One of those requests for rehearing also requested that the FERC stay the Order. On January 23, 2020, the FERC issued its Order on Rehearing and Stay in which the FERC rejected all challenges presented in the requests for rehearing and the request for stay of the Order. The parties who filed the requests for re-hearing petitioned the U.S. Court of Appeals for the District of Columbia ("D.C. Circuit") to review the Order and the order denying rehearing. On August 3, 2021, the D.C. Circuit denied all petitions, except for two technical issues dealing with environmental justice and GHG emissions, which were remanded to the FERC for further consideration. The D.C. Circuit did so without *vacatur*, and accordingly, the Rio Grande LNG Facility's authorization from the FERC remains legally valid and enforceable. A second appeal was also filed with the same court by the same parties, seeking a review of the FERC letter order amending the Order to account for the design change from six to five trains but the petitioners moved to voluntarily dismiss this appeal on August 23, 2021. On April 21, 2023, FERC issued its order responding to the D.C. Circuit's remand of the FERC Order, reaffirming its prior finding that the siting, construction, and operation of the Rio Grande LNG Facility is not inconsistent with the public interest ("Remand Order"). Parties sought rehearing of the Remand Order, which FERC denied by operation of law on June 22, 2023, and subsequently issued a substantive order on the merits upholding the conclusions in the Remand Order, and its reaffirmation of the FERC Order. On August 17, 2023, parties petitioned the D.C. Circuit for review of the Remand Order, which is still pending.

On November 24, 2023, a motion was filed with FERC to stay construction of the Rio Grande LNG Facility, which FERC denied on January 24, 2024. On February 2, 2024, parties filed a motion of the D.C. Circuit to stay construction of the Rio Grande LNG Facility, which is still pending with the D.C. Circuit.

Parties also filed a similar appeal in the Fifth Circuit in respect to the U.S. Army Corps of Engineers permit issued pursuant to Section 404 of the Clean Water Act. On January 5, 2023, the court fully denied the appeal rejecting each of the challengers' arguments.

On November 17, 2021, Rio Grande filed a Limited Amendment with the FERC, seeking authorization to incorporate carbon capture and storage systems, which would enable Rio Grande to voluntarily capture and permanently store at least 90% of the CO₂ expected to be generated at the Rio Grande LNG Facility. Once captured, the CO₂ is expected to be transported to an underground geologic formation permitted by the U.S. Environmental Protection Agency ("EPA") and relevant Texas agencies via the existing underground injection control ("UIC") Class VI permitting regime for geologic sequestration of CO₂. On April 14, 2023, FERC issued a notice that it was suspending its environmental analysis of the Limited Amendment, citing the need for additional information regarding the carbon capture systems. The Limited Amendment is pending with FERC.

On October 14, 2022, Rio Grande received from FERC a two-year extension of time, until November 22, 2028, to complete construction of the Rio Grande LNG Facility and place it into service. Rio Grande's initial order had required that Rio Grande complete construction of the Rio Grande LNG Facility within seven years of the date of the Order, by November 22, 2026. Rio Grande sought an extension of this deadline, explaining to FERC that despite NextDecade's efforts to develop the Rio Grande LNG Facility, the COVID-19 pandemic impacted NextDecade's ability to secure sufficient offtake agreements to reach a positive investment decision and commence construction of the Rio Grande LNG Facility. FERC found that this demonstrated good cause to extend the commencement of construction deadline, and accordingly approved Rio Grande's request.

NEXT Carbon Solutions

Carbon capture and storage ("CCS") is the process of (i) capturing CO₂ at an emissions source, (ii) compressing the CO₂ for transportation and (iii) safely injecting the compressed CO₂ into deep rock formations at a suitable site, where it is permanently stored and subsequently monitored according to EPA standards and requirements. The Paris Agreement is a multilateral, binding agreement that brings nations together in a common cause to combat climate change and adapt to its effects. We believe that deploying CCS equipment and technology is key to achieving global reductions in greenhouse gas emissions (which includes CO₂ among other gases), a goal of the Paris Agreement.

NEXT Carbon Solutions is developing a proposed end-to-end CCS solutions for power plants and other industrial facilities that emit CO₂ as a byproduct of various processes within their operations. Without a CCS solution, the emitted CO₂ would otherwise be released to the atmosphere. Leveraging our team's engineering and project management experience, we have developed proprietary processes focused on post-combustion carbon capture that are expected to lower the capital and operating costs of deploying CCS at industrial facilities, thereby making such potential projects more economically viable. We have proposed a CCS project at the Rio Grande LNG Facility, and we expect to partner with third parties to invest in the deployment of CCS technologies to capture and permanently store CO₂ emissions at their facilities.

Service Offerings and Potential Market

NEXT Carbon Solutions' proprietary CCS processes will use an amine absorption system, one of the most common methods used for such purposes. Derived from extensive engineering efforts, our proprietary CCS processes are designed to generate the following expected benefits as compared to existing alternatives:

- Enable CO₂ capture up to an expected 95% of emissions generated from a source facility;
- Competitive cost (both capital and operating expenditures) of post-combustion CCS;
- Use proven technology and equipment to capture CO₂ emissions at scale;
- Minimize energy requirements;
- Substantially reduce or, in some cases, eliminate consumption of fresh-water; and
- Reduce the land footprint required by the CCS facility.

Our proprietary CCS processes do not include new equipment or technology. We have designed novel proposed applications of existing industrial-scale equipment to reduce the expected capital and operating expenditures associated with the CCS process applied at scale. These novel proposed designs and processes are covered by a portfolio of awarded and pending patents and are the intellectual property of the Company. NEXT Carbon Solutions proposed project designs are focused on the treatment and cooling stages of CO₂-rich flue gas and therefore agnostic to amine type, allowing us to work with multiple third party providers to optimize the proposed projects and maintain their anticipated benefits.

Our proposed end-to-end CCS offering includes the design, development, construction and operation of the capture, transportation, and storage components of a carbon capture and storage project.

NEXT Carbon Solutions' marketing efforts for proposed projects are primarily focused on existing industrial facilities with emissions greater than one million tonnes of CO₂ per annum and located proximally with saline aquifers with adequate storage capacity. There are more than 600 facilities in the United States that produce more than one million tonnes of CO₂ per annum, representing a very robust addressable market. We believe the optimal transportation and storage component of our projects is a point-to-point design, whereby CO₂ captured from a source facility is permanently stored in a proximate and dedicated saline aquifer storage site. CO₂ storage hubs also represent a viable CO₂ storage alternative. Our analysis indicates that source emitters of greater than one million tonnes per annum are sufficient in size to support a point-to-point sequestration project and could serve as an anchor customer for the eventual development of a storage hub.

Potential Sources of Value

Integrated deployment of CCS processes at a source facility has the potential to generate value from a variety of sources including: government incentives, such as the Internal Revenue Code Section 45Q tax credit, build out and marketing of a portfolio of low cost, independently verified carbon credits, premiums resulting from more environmentally friendly products, such as products with a lower carbon footprint or intensity, and, in certain potential commercial arrangements, increased market share earned by the source facility following CCS deployment.

We can offer prospective customers a variety of proposed commercial structures, which are aimed at providing sufficient flexibility to balance customers' ESG and financial goals, commercial appetite, risk profiles, investing strategies, and capital availability. We also believe that some of our prospective customers may have significant financial upside due to improved competitive position resulting from a full integration of the source facility with CCS processes, and we will

seek to share in this value creation when applicable. Further, we believe that current market conditions, incentives provided in the United States and prospective regulation in foreign countries, represent a unique opportunity for NEXT Carbon Solutions to develop a portfolio of CCS projects that would eventually generate meaningful financial returns to our shareholders. NEXT Carbon Solutions expects to negotiate commercial terms with prospective customers on a case-by-case basis depending on the unique characteristics of the relevant source facility.

Competition

We are subject to a high degree of competition in all aspects of our business. See "Item 1.A — Risk Factors — *Competition in the energy industry is intense, and some of our competitors have greater financial, technological and other resources.*"

The Rio Grande LNG Facility will compete with liquefaction facilities worldwide to supply economically advantaged LNG to the global market. In this market, we will compete with a variety of companies, such as independent, technology-driven companies, state-owned companies, and other independent oil and natural gas companies and utilities. Many of these competitors have longer operating histories, more development experience, greater name recognition, greater access to the LNG market, more employees, and substantially greater financial, technical and marketing resources than we currently possess.

NEXT Carbon Solutions will compete with other providers of CCS services, including traditional original end manufacturers, EPC firms and midstream transportation and storage companies in offering CCS solutions. Our competitors in the CCS space may have longer operating histories, more development experience, greater name recognition, greater access to the CCS market, more employees and substantially greater financial, technical and marketing resources than we currently possess.

Employees

As of December 31, 2023, we had 147 full-time employees and 13 independent contractors. We utilize independent contractors on an as-needed basis and have no collective bargaining agreements with our employees.

Offices

Our principal executive offices are located at 1000 Louisiana St., Suite 3900, Houston, Texas, 77002, and our telephone number is (713) 574-1880.

Available Information

Our internet website address is www.next-decade.com. We intend to use our website as a means of disclosing information for complying with disclosure obligations under Regulation FD. Such disclosures will be included on our website under the heading "Investors." Accordingly, investors should monitor such portion of our website, in addition to following our press releases and SEC filings. Within our website under the heading "Investors," we make available free of charge our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports filed with or furnished to the SEC under applicable securities laws. These materials are made available as soon as reasonably practical after we electronically file such materials with or furnish such materials to the SEC. Information on our website is not incorporated by reference into this Annual Report on Form 10-K and should not be considered part of this document. In addition, we intend to disclose on our website any amendments to, or waivers from, our Code of Conduct and Ethics that are required to be publicly disclosed pursuant to rules of the SEC.

The SEC also maintains a website that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov.

Item 1A. Risk Factors

We are subject to uncertainties and risks due to the nature of the business activities we conduct. The following information describes certain uncertainties and risks that could affect our business, financial condition or results of operations or could cause actual results to differ materially from estimates or expectations contained in our forward-looking statements. This section does not describe all risks applicable to us, our industry or our business, and it is intended only as a summary of known material risks that are specific to us. We may experience additional risks and uncertainties not currently known to us or that we currently deem to be immaterial which may materially and adversely affect our business, financial condition and results of operations.

Risks Related to our Business and the Industry in which we Operate

The substantial amount of indebtedness incurred to finance construction of Phase 1 of the Rio Grande LNG Facility may adversely affect Rio Grande's cash flow and its ability to operate its business, remain in compliance with debt covenants and make payments on its indebtedness.

Rio Grande has incurred a substantial amount of indebtedness. This substantial level of indebtedness increases the possibility that Rio Grande may be unable to generate cash sufficient to pay, when due, the principal or interest on such indebtedness or to refinance such indebtedness ahead of its scheduled maturity. This indebtedness and obligations thereunder could have other important consequences to you as a stockholder. For example:

- any failure to comply with the obligations of any of Rio Grande's debt instruments, including financial and other restrictive covenants, could result in an event of default under the applicable instrument;
- Rio Grande may be more vulnerable to adverse changes in general economic, industry and competitive conditions and adverse change in government regulation affecting Rio Grande's ability to pay obligations when due;
- Rio Grande may need to dedicate a substantial portion of its future cashflow from operations to payments on indebtedness, thereby reducing the availability of cash flows to fund working capital, capital expenditures, acquisitions, other general corporate purposes and any future dividends or share repurchases;
- the ability to refinance Rio Grande's indebtedness will depend on the condition of credit markets and capital markets, and its financial condition at such time. Any refinancing could be at higher interest rates and may require compliance with more onerous covenants, which could further restrict business operations;
- we may have limited flexibility in planning for, or reacting to, changes in Rio Grande's business and the industry in which it operates; and
- our indebtedness may place Rio Grande at a competitive disadvantage compared to its competitors that have less debt.

Restrictions in debt agreements may prevent certain beneficial transactions.

In addition to restrictions on the ability of Rio Grande to make distributions or incur additional indebtedness, the agreements governing Rio Grande's indebtedness also contain various other covenants that may prevent it from engaging in beneficial transactions, including limitations on the ability of Rio Grande or certain of its subsidiaries to:

- make distributions or certain investments;
- incur additional indebtedness;
- purchase, redeem or retire equity interests;
- sell or transfer assets;
- incur liens;
- enter into transactions with affiliates; and
- consolidate, merge, sell or lease all or substantially all of its assets.

A breach of the covenants and other restrictions in any of Rio Grande's indebtedness could result in an event of default thereunder. Such a default may allow the holders of such indebtedness to accelerate the related indebtedness which may result in foreclosure on Rio Grande's assets.

Additionally, NextDecade LLC has entered into a credit agreement (the "NextDecade Credit Agreement") that provides for a \$50 million revolving loan facility. The NextDecade Credit Agreement includes covenants that, among other things, limit the ability of NextDecade LLC to incur additional indebtedness, make certain investments or pay dividends or distributions on equity interests or subordinated indebtedness or purchase, redeem, or retire equity interests, sell or transfer assets, incur liens or dissolve, liquidate, consolidate, merge. Upon the occurrence and continuation of an event of default under the NextDecade Credit Agreement (and after all applicable cure periods have elapsed), the required lenders may, by notice to NextDecade LLC accelerate the loans thereunder, suspend or terminate all outstanding loan commitments under the NextDecade Credit Agreement and exercise remedies in respect of the collateral.

Conducting a portion of our operations through joint ventures in which we do not have 100% ownership interest, and which are not operated solely for the benefit of our stockholders, exposes us and our stockholders to risks and uncertainties, many of which are outside of our control.

We currently operate parts of our business through a joint venture, Rio Grande LNG Intermediate Holdings, LLC ("Intermediate Holdings") in which we do not have 100% ownership interest, and we may enter into additional joint ventures in the future. Joint ventures and minority investments inherently involve a lesser degree of control over business operations, thereby potentially increasing the financial, legal, operational and/or compliance risks associated with the joint venture or minority investment. For example, except for the Member Reserved Matters (as defined below), the affairs of Intermediate Holdings will otherwise be managed by a board of managers (the "Intermediate Holdings Board"). The Intermediate Holdings Board will be composed of up to four managers appointed by the NextDecade Member (the "Class A Managers"), including one Class A Manager designated by Global LNG North America Corp., a subsidiary of TotalEnergies SE, and managers appointed by members holding a minimum percentage of the Class B limited liability company interests in Intermediate Holdings (the "Class B Managers"). Approval of any matter by the Intermediate Holdings Board will require the consent of a majority of the Class A Managers voting on the matter and Class B Managers representing a majority of the Class B limited liability company interests in Intermediate Holdings voting for such matter, as applicable; *provided* that (i) certain specified "qualified matters," "supermajority matters," and "unanimous matters" are reserved to the approval of the members of Intermediate Holdings (the "Member Reserved Matters") holding a requisite percentage of the applicable classes of limited liability company interests in Intermediate Holdings, and (ii) related party transactions will be subject to approval in accordance with the procedures specified in the JV Agreement. Pursuant to the JV Agreement, the NextDecade Member will be entitled to receive up to approximately 20.8% of distributions of available cash of Intermediate Holdings to its members during operations; provided, that a majority of the Intermediate Holdings distributions to which the NextDecade Member is otherwise entitled will be paid for any distribution period only after the Financial Investors receive an agreed distribution threshold in respect of such distribution period and certain other deficit payments from prior distribution periods, if any, are made. Any such shortfall in distributions that the NextDecade Member would otherwise have been entitled to will accrue as an arrearage to be paid out in future periods in which Intermediate Holdings meets the applicable target distribution threshold for the Financial Investors. Challenges and risks presented by joint venture structures not otherwise present with respect to our wholly-owned subsidiaries and direct operations, include:

- our joint ventures may fail to generate the expected financial results, and the return may be insufficient to justify our investment of effort and/or funds;
- we may not control the joint ventures or our venture partners may hold veto rights over certain actions;
- the level of oversight, control and access to management information we are able to exercise with respect to these operations may be lower compared to our wholly-owned businesses, which may increase uncertainty relating to the financial condition of these operations, including the credit risk profile;
- we may experience impasses or disputes with our joint venture partners on certain decisions, which could require us to expend additional resources to resolve such impasses or disputes, including litigation or arbitration;
- we may not have control over the timing or amount of distributions from the joint ventures;
- our joint venture partners may have business or economic interests that are inconsistent with ours and may take actions contrary to our interests;
- our joint venture partners may fail to fund capital contributions or fail to fulfill their obligations as partners;
- the arrangements governing our joint ventures may contain restrictions on the conduct of our business and may contain certain conditions or milestone events that may never be satisfied or achieved;
- we may suffer losses as a result of actions taken by our venture partners with respect to our joint ventures; and
- it may be difficult for us to exit joint ventures if an impasse arises or if we desire to sell our interest for any reason.

We believe an important element in the success of any joint venture is a solid relationship between the members of that venture. If there is a change in ownership, a change of control, a change in management or management philosophy, a change in business strategy or another event with respect to a member of our joint venture that adversely impacts the relationship between the venture partners, it could adversely impact such venture.

If our partners are unable or unwilling to invest in our joint venture in the manner that is anticipated or otherwise fail to meet their contractual obligations, the joint venture may be unable to adequately perform and conduct its respective operations, or may require us to provide, or make other arrangements for additional financing for the joint venture. Such financing may not be available on favorable terms, or at all.

Joint venture partners, controlling shareholders, management or other persons or entities who control them may have economic or business interests, strategies or goals that are inconsistent with ours. Business decisions or other actions or omissions of the joint venture partners, controlling shareholders, management or other persons or entities who control them may adversely affect the value of our investment, result in litigation or regulatory action against us and otherwise damage our reputation. Any such circumstance could materially adversely affect our results of operations, financial condition, cash flows and/or prospects.

Our projects are in the development and construction phases, and the success of such projects is unpredictable; as such, positive cash flows and even revenues will be several years away, if they occur at all.

We are not expected to generate cash flow, or even obtain revenues, from our LNG liquefaction and export activities unless and until the Rio Grande LNG Facility is operational. Additionally, we do not expect to generate cash flow from our CCS projects until we install CCS systems at the Rio Grande LNG Facility or on third-party industrial facilities. Accordingly, distributions to investors may be limited, delayed, or non-existent.

Our cash flow and consequently our ability to distribute earnings will be dependent upon our ability to complete Phase 1 of the Rio Grande LNG Facility and future phases of development and implement CCS systems and thereafter generate cash and net operating income from operations. Rio Grande's ability to complete the Rio Grande LNG Facility, as discussed further below, is dependent upon, among other things, performance of third-party contractors and customers under their agreements with Rio Grande. NEXT Carbon Solutions' ability to install CCS systems at third-party industrial facilities, as discussed further below, is dependent on the development of front-end engineering and design ("FEED") offerings and contracting with third parties to install CCS systems in their industrial facilities. We do not expect Rio Grande to generate any revenue until the completion of construction of Phase 1 of the Rio Grande LNG Facility or NEXT Carbon Solutions to generate any revenue until successful installation of CCS systems at third-party facilities. After Phase 1 of the Rio Grande LNG Facility is completed or our CCS systems are installed in third-party industrial facilities, financing and numerous other factors may reduce our cash flow. As a result, we may not make distributions of any amount or any distributions may be delayed.

We will be required to seek additional debt and equity financing in the future to complete future phases of the Rio Grande LNG Facility and the development of CCS projects and may not be able to secure such financing on acceptable terms, or at all.

Since we will be unable to generate any revenue while we are in the development and construction stages, which will be for multiple years with respect to Phase 1 of the Rio Grande LNG Facility, we will need additional financing to provide the capital required to execute our business plan. We will need significant additional funding to develop and construct future phases of the Rio Grande LNG Facility and CCS projects as well as for working capital requirements and other operating and general corporate purposes.

Our ability to obtain the capital necessary to fund development and construction of future projects will depend on the condition of the credit and capital markets, which could become constrained due to factors outside our control. There can be no assurance that we will be able to raise sufficient capital on acceptable terms, or at all. If sufficient capital is not available on satisfactory terms, we may be required to delay, scale back or eliminate the development of business opportunities, and our operations and financial condition may be adversely affected to a significant extent.

Additional debt financing for future phases of development at the Rio Grande LNG Facility, if obtained, may involve agreements that include liens on subsequent trains or other assets and covenants limiting or restricting our ability to take specific actions, such as paying dividends or making distributions, incurring additional debt, acquiring or disposing of assets and increasing expenses. Debt financing would also be required to be repaid regardless of our operating results.

In addition, the ability to obtain financing for future phases of the Rio Grande LNG Facility is expected to be contingent upon, among other things, entry into EPC agreements for construction of subsequent trains and sufficient long-term commercial agreements prior to the commencement of construction. For additional information regarding our ability to enter into such agreements, see "*— Our ability to generate cash is substantially dependent upon us entering into satisfactory contracts with third parties and the performance of those third parties under those contracts.*"

There is substantial doubt about our ability to continue as a going concern.

We have incurred operating losses since our inception and management expects operating losses and negative cash flows to continue for the foreseeable future and, as a result, we will require additional capital to fund our operations and execute our business plan. As of December 31, 2023, the Company had \$38.2 million in cash and cash equivalents, which may not be sufficient to fund the Company's planned operations through one year after the date the consolidated financial statements are issued. Accordingly, there is substantial doubt about the Company's ability to continue as a going concern. The analysis used to determine the Company's ability to continue as a going concern does not include cash sources outside of the Company's direct control that management expects to be available within the next twelve months.

Our ability to continue as a going concern is dependent upon our ability to obtain sufficient funding through additional debt or equity financing and to manage operating and overhead costs. There can be no assurance that we will be able to raise sufficient capital on acceptable or favorable terms to the Company, or at all.

The Rio Grande LNG Facility's operations will be substantially dependent on the development and operation of the Pipeline by Enbridge and its affiliates.

The Rio Grande LNG Facility will be dependent on a pipeline owned by an affiliate of Enbridge (the "Transporter") for the delivery of all of its natural gas. The Pipeline is currently in development and its construction will require the Transporter to secure rights-of-way along the proposed Pipeline route. It is possible that, in negotiating to secure these rights-of-way, the Transporter encounters recalcitrant landowners or competitive projects, which could result in additional time needed to secure the Pipeline route and, consequently, delays in, or abandonment of, its construction. Construction of the Pipeline could be delayed or abandoned for any of many other reasons, such as it becoming economically disadvantageous to the Transporter, a failure to obtain or maintain all necessary permits, approvals and licenses for the construction and operation, mechanical or structural failures, inadvertent damages during construction, natural disasters, or any terrorist attack, including cyberterrorism, affecting the Pipeline or the Transporter. Any such delays in the construction of the Pipeline could delay the development of the Rio Grande LNG Facility and its becoming operational.

We may be subject to risks related to doing business in, and having counterparties based in, foreign countries.

We may engage in operations or make substantial commitments to and investments in, and enter into agreements with, counterparties located outside the U.S., which would expose us to political, governmental and economic instability and foreign currency exchange rate fluctuations. We also may participate in global carbon capture credit markets to the extent those develop and become available to our CCS projects or their customers.

Any disruption caused by these factors could harm our business, results of operations, financial condition, liquidity and prospects. Risks associated with potential operations, commitments and investments outside of the U.S. include but are not limited to risks of:

- currency exchange restrictions and currency fluctuations;
- war or terrorist attack;
- expropriation or nationalization of assets;
- renegotiation or nullification of existing contracts or international trade arrangements;
- changing political conditions;
- macro-economic conditions impacting key markets and sources of supply;
- changing laws and policies affecting trade, taxation, incentives, financial regulation, immigration, and investment, including laws and policies regarding the verification and trading of carbon capture credits;
- the implementation of tariffs by the U.S. or foreign countries in which we do business;
- duplicative taxation by different governments;
- general hazards associated with the assertion of sovereignty over areas in which operations are conducted, transactions occur, or counterparties are located; and
- the unexpected credit rating downgrade of countries in which our LNG customers are based.

As our reporting currency is the U.S. dollar, any operations conducted outside the U.S. or transactions denominated in foreign currencies would face additional risks of fluctuating currency values and exchange rates, hard currency shortages and controls on currency exchange. In addition, we would be subject to the impact of foreign currency fluctuations and exchange rate changes on our financial reports when translating our assets, liabilities, revenues and expenses from operations or transactions outside of the U.S. into U.S. dollars at the then-applicable exchange rates. These translations could result in changes to our results of operations from period to period.

Costs for the Rio Grande LNG Facility and CCS projects are subject to various factors.

Construction costs for the Rio Grande LNG Facility and CCS projects will be subject to various factors such as economic and market conditions, government policy, claims and litigation risk, competition, the final terms of any definitive agreement for services with EPC service providers, change orders, delays in construction, legal and regulatory requirements, unanticipated regulatory delays, site issues, increased component and material costs, escalation of labor costs, labor disputes, increased spending to maintain construction schedules and other factors. In particular, costs are expected to be substantially affected by:

- global prices of nickel, steel, concrete, pipe, aluminum and other component parts of the Rio Grande LNG Facility or CCS projects and the contractual terms upon which our contractors are able to source and procure required materials;
- any U.S. import tariffs or quotas on steel, aluminum, pipe or other component parts of the Rio Grande LNG Facility or CCS projects, which may raise the prices of certain materials used in the Rio Grande LNG Facility;
- commodity and consumer prices (principally, natural gas, crude oil and fuels that compete with them in our target markets) on which our economic assumptions are based;
- the exchange rate of the U.S. Dollar with other currencies;
- changes in regulatory regimes in the U.S. and the countries to which we will be authorized to sell LNG;
- changes in regulatory regimes in the U.S. and the countries that seek to develop and regulate a market for the trading of global carbon capture credits;
- levels of competition in the U.S. and worldwide;
- changes in the tax regimes in the countries to which we sell LNG or in which we operate;
- cost inflation relating to the personnel, materials and equipment used in our operations;
- delays caused by events of force majeure or unforeseeable climatic events;
- interest rates; and
- synergy benefits associated with the development of multiple phases of the Rio Grande LNG Facility using identical design and construction philosophies.

Our EPC agreements for Phase 1 allocate certain cost risks to Bechtel; however, events related to the above activities may cause actual costs of the Rio Grande LNG Facility to vary from the range, combination and timing of assumptions used for projected costs of the Rio Grande LNG Facility, in addition to affecting our willingness to make a positive FID on future phases of development at the Rio Grande LNG Facility or on CCS projects. Such variations may be material and adverse, and an investor may lose all or a portion of its investment.

We will be dependent on third-party contractors for the successful completion of the Rio Grande LNG Facility and CCS projects, and these contractors may be unable to complete the Rio Grande LNG Facility or CCS projects or may build a non-conforming Rio Grande LNG Facility or CCS projects.

The construction of the Rio Grande LNG Facility is expected to take several years, will be confined to a limited geographic area and could be subject to delays, cost overruns, labor disputes and other factors that could adversely affect financial performance or impair our ability to execute our scheduled business plan.

Timely and cost-effective completion of the Rio Grande LNG Facility and any CCS projects in conformity with agreed-upon specifications will be highly dependent upon the performance of third-party contractors pursuant to their agreements. We have not yet entered into definitive agreements with certain of the contractors, advisors and consultants necessary for the development and construction for future phases of development at the Rio Grande LNG Facility or any CCS projects. We may not be able to successfully enter into such construction agreements on terms or at prices that are acceptable to us.

Further, faulty construction that does not conform to our design and quality standards may have an adverse effect on our business, results of operations, financial condition and prospects. For example, improper equipment installation may lead to a shortened life of our equipment, increased operations and maintenance costs or a reduced availability or production capacity of the affected facility. The ability of our third-party contractors to perform successfully under any agreements to be entered into is dependent on a number of factors, including force majeure events and such contractors' ability to:

- design, engineer and receive critical components and equipment necessary for the Rio Grande LNG Facility and CCS projects to operate in accordance with specifications and address any start-up and operational issues that may arise in connection with the commencement of commercial operations;
- attract, develop and retain skilled personnel and engage and retain third-party subcontractors, and address any labor issues that may arise;
- post required construction bonds and comply with the terms thereof, and maintain their own financial condition, including adequate working capital;
- adhere to any warranties the contractors provide in their EPC contracts; and
- respond to difficulties such as equipment failure, delivery delays, schedule changes and failure to perform by subcontractors, some of which are beyond their control, and manage the construction process generally, including engaging and retaining third-party contractors, coordinating with other contractors and regulatory agencies and dealing with inclement weather conditions.

Furthermore, we may have disagreements with our third-party contractors about different elements of the construction process, which could lead to the assertion of rights and remedies under the related contracts, resulting in a contractor's unwillingness to perform further work on the relevant project. We may also face difficulties in commissioning a newly constructed facility at the Rio Grande LNG Facility. Any of the foregoing issues or significant project delays in the development or construction of the Rio Grande LNG Facility and, to the extent applicable, CCS projects could materially and adversely affect our business, results of operations, financial condition and prospects.

Our ability to generate cash is substantially dependent upon us entering into satisfactory contracts with third parties and the performance of those third parties under those contracts.

We have entered into nine commercial arrangements with customers for products and services from the Rio Grande LNG Facility, each of which is subject to preconditions including the Rio Grande LNG Facility becoming operational. We are dependent on each customer's continued willingness and ability to perform its obligations under its sale and purchase agreement. We are also exposed to the credit risk of any guarantor of these customers' obligations under their respective sale and purchase agreement in the event that we must seek recourse under a guaranty. If any customer fails to perform its obligations under its sale and purchase agreement, our business, contracts, financial condition, operating results, cash flow, liquidity and prospects could be materially and adversely affected, even if we were ultimately successful in seeking damages from that customer or its guarantor for a breach of the sale and purchase agreement.

We have not yet entered into any definitive commercial arrangements with third parties desiring to install our CCS systems in their industrial facilities. We also have not entered into, and may never be able to enter into, satisfactory commercial arrangements with third-party suppliers of feedstock or other required supplies to the Rio Grande LNG Facility.

Our business strategy regarding how and when the Rio Grande LNG Facility's export capacity or, LNG produced by the Rio Grande LNG Facility, or CCS systems are marketed may change based on market factors. Without limitation, our business strategy may change due to inability to enter into agreements with customers or based on our or market participants' views regarding future supply and demand of LNG, prices, available worldwide natural gas liquefaction capacity or regasification capacity, the availability and efficiency of a market for carbon capture credits or other factors. If efforts to market LNG produced by the Rio Grande LNG Facility, the Rio Grande LNG Facility's expansion export capacity, or our CCS systems are not successful, our business, results of operations, financial condition and prospects may be materially and adversely affected.

Our exposure to the performance and credit risks of counterparties may adversely affect our operating results, liquidity and access to financing.

Our operations involve our entering into various construction, purchase and sale, supply and other transactions with numerous third parties. In such arrangements, we will be exposed to the performance and credit risks of our counterparties, including the risk that one or more counterparties fail to perform their obligations under the applicable agreement. Some of these risks may increase during periods of commodity price volatility. In some cases, we will be dependent on a single counterparty or a small group of counterparties, all of whom may be similarly affected by changes in economic and other conditions. These risks include, but are not limited to, risks related to the construction discussed above in *"We will be dependent on third-party contractors for the successful completion of the Rio Grande LNG Facility and CCS projects, and these contractors may be unable to complete the Rio Grande LNG Facility or CCS projects or may build a non-conforming Rio Grande LNG Facility or CCS projects."* Defaults by suppliers, customers and other counterparties may adversely affect our operating results, liquidity and access to additional financing.

Our construction and operations activities will be subject to a number of development risks, operational hazards, regulatory approvals and other risks which may not be fully covered by insurance, and which could cause cost overruns and delays that could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.

Development and construction of the Rio Grande LNG Facility and CCS projects will be subject to the risks of delay or cost overruns inherent in any construction project resulting from numerous factors, including, but not limited to, the following:

- difficulties or delays in obtaining, or failure to obtain, sufficient debt or equity financing on reasonable terms;
- failure to obtain or maintain all necessary government and third-party permits, approvals and licenses, or to comply with all the terms and conditions of those authorizations, for the construction and operation of the Rio Grande LNG Facility and CCS projects;
- failure to obtain or maintain commercial agreements that generate sufficient revenue to support the financing and construction of the Rio Grande LNG Facility or CCS projects;
- difficulties in engaging qualified contractors necessary to the construction of the contemplated Rio Grande LNG Facility or CCS projects;
- shortages of equipment, materials or skilled labor;
- natural disasters and catastrophes, such as hurricanes, explosions, fires, floods, industrial accidents and terrorism;
- delays in the delivery of ordered materials;
- work stoppages and labor disputes;
- opposition from environmental and social groups, landowners, tribal groups, local groups and other advocates could result in organized protests, attempts to block or sabotage our construction activities or operations, intervention in regulatory or administrative proceedings involving our assets, or lawsuits or other actions designed to prevent, disrupt or delay the construction or operation of the Rio Grande LNG Facility or CCS projects;
- competition with other domestic and international LNG export facilities;
- unanticipated changes in domestic and international market demand for and supply of natural gas and LNG, which will depend in part on supplies of and prices for alternative energy sources and the discovery of new sources of natural resources;
- insufficiency in domestic and international market demand for verified carbon capture credits;
- unexpected or unanticipated additional improvements; and
- adverse general economic conditions.

Delays beyond the estimated development periods, as well as cost overruns, could increase the cost of completion beyond the amounts that are currently estimated, which could require us to obtain additional sources of financing to fund the activities until the Rio Grande LNG Facility is constructed and operational, which could cause further delays. The need for additional financing may also make the Rio Grande LNG Facility uneconomic. Any delay in completion of the Rio Grande LNG Facility may also cause a delay in the receipt of revenues projected from the Rio Grande LNG Facility or cause a loss of one or more customers. As a result, any significant construction delay, whatever the cause, could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.

Rio Grande LNG Facility operations will be subject to all of the hazards inherent in the receipt and processing of natural gas to LNG, and associated short-term storage including:

- damage to pipelines and plants, related equipment, loading terminal, and surrounding properties caused by hurricanes, tornadoes, floods, fires and other natural disasters, acts of terrorism and acts of third parties;
- damage from subsurface and/or waterway activity (for example, sedimentation of shipping channel access);
- leaks of natural gas, or natural gas liquids, or losses of natural gas, or natural gas liquids, as a result of the malfunction of equipment or facilities;
- fires, ruptures and explosions;
- other hazards that could also result in personal injury and loss of life, pollution and suspension of operations; and
- hazards experienced by other operators that may affect our operations by instigating increased regulations and oversight.

Any of these risks could adversely affect our ability to conduct operations or result in substantial loss to us as a result of claims for:

- injury or loss of life;
- damage to and destruction of property, natural resources and equipment;
- pollution and other environmental damage;
- regulatory investigations and penalties;
- suspension of our operations;
- failure to perform contractual obligations; and
- repair and remediation costs.

Due to the scale of the Rio Grande LNG Facility, we may encounter capacity limits in insurance markets, thereby limiting our ability to economically obtain insurance with our desired level of coverage limits and terms. With respect to the Rio Grande LNG Facility or CCS projects, we may elect not to obtain insurance for any or all of these risks if we believe that the cost of available insurance is excessive relative to the risks presented. In addition, contractual liabilities and pollution and environmental risks generally are not fully insurable. The occurrence of an event that is not fully covered by insurance could have a material adverse effect on our business, financial condition and results of operations.

We may experience increased labor costs, and the unavailability of skilled workers or our failure to attract and retain qualified personnel could adversely affect us. In addition, changes in our senior management or other key personnel could affect our business operations.

We are dependent upon the available labor pool of skilled employees authorized to work in the U.S. We compete with other energy companies and other employers to attract and retain qualified personnel with the technical skills and experience required to construct and operate our facilities and pipelines and to provide our customers with the highest quality service. A shortage in the labor pool of skilled workers able to legally work in the U.S. or other general inflationary pressures or changes in applicable laws and regulations could make it more difficult for us to attract and retain qualified personnel and could require an increase in the wage and benefits packages that we offer, thereby increasing our operating costs. Any increase in our operating costs could materially and adversely affect our business, financial condition, operating results, liquidity and prospects.

We depend on our executive officers for various activities. We do not maintain key person life insurance policies on any of our personnel. Although we have arrangements relating to compensation and benefits with certain of our executive officers, we do not have any employment contracts or other agreements with key personnel binding them to provide services for any particular term. The loss of the services of any of these individuals could have a material adverse effect on our business.

Technological innovation, competition or other factors may negatively impact our anticipated competitive advantage or our processes.

Our success will depend on our ability to create and maintain a competitive position in the natural gas liquefaction and carbon capture and storage industries. We do not have any exclusive rights to any of the liquefaction technologies that we will be utilizing in the Rio Grande LNG Facility. In addition, the LNG technology we are using in the Rio Grande LNG Facility may face competition due to the technological advances of other companies or solutions, including more efficient and cost-effective processes or entirely different approaches developed by one or more of our competitors or others. Although we have applied for and obtained patents relating to our CCS processes and rely on other procedures to protect our intellectual property, we may be unable to prevent third parties from utilizing our intellectual property; see “— *We depend on our intellectual property for our CCS projects, and our failure to protect that intellectual property could adversely affect the future growth and success of our CCS business.*”

Continuing technological changes in the market for carbon capture solutions could make our CCS projects less competitive or obsolete, either generally or for particular applications. Our future success will depend upon our ability to develop and introduce a variety of new capabilities and enhancements to our CCS offerings to address the changing needs of the carbon capture markets. Delays in introducing enhancements, the failure to choose correctly among technical alternatives or the failure to offer innovative products or enhancements at competitive prices may cause existing and potential customers to utilize competing projects or solutions.

We depend on our intellectual property for our CCS projects, and our failure to protect that intellectual property could adversely affect the future growth and success of our CCS business.

We rely on a combination of internal procedures, nondisclosure agreements, licenses, patents, trademarks and copyright law to protect our intellectual property and know-how. Our intellectual property rights may not be successfully asserted in the future or may be invalidated, circumvented or challenged. For example, we frequently explore and evaluate potential relationships and projects with other parties, which often require that we provide the potential partner with confidential technical information.

While confidentiality agreements are typically put in place, there is a risk the potential partner could violate the confidentiality agreement and use our technical information for its own benefit or the benefit of others or compromise the confidentiality. We have applied for and obtained some U.S. patents and will continue to evaluate the registration of additional patents, as appropriate. We cannot guarantee that any of our pending applications will be approved. Moreover, even if the applications are approved, third parties may seek to oppose or otherwise challenge them. A failure to obtain registrations in the United States or elsewhere could limit our ability to protect our proprietary processes and could impede our business. Further, the protection of our intellectual property may require expensive investment in protracted litigation and the investment of substantial management time and there is no assurance we ultimately would prevail or that a successful outcome would lead to an economic benefit that is greater than the investment in the litigation.

In addition, we may be unable to prevent third parties from using our intellectual property rights and know-how without our authorization or from independently developing intellectual property that is the same as or similar to ours. The unauthorized use of our know-how by third parties could reduce or eliminate any competitive advantage we have developed, cause us to lose sales or otherwise harm our CCS business or increase our expenses as we attempt to enforce our rights.

Failure of exported LNG to be a competitive source of energy for international markets could adversely affect our customers and could materially and adversely affect our business, contracts, financial condition, operating results, cash flow, liquidity and prospects.

Operations of the Rio Grande LNG Facility will be dependent upon our ability to deliver LNG supplies from the U.S., which is primarily dependent upon LNG being a competitive source of energy internationally. The success of the Rio Grande LNG Facility is dependent, in part, on the extent to which LNG can, for significant periods and in significant volumes, be supplied from North America and delivered to international markets at a lower cost than the cost of alternative energy sources. Through the use of improved exploration technologies, additional sources of natural gas may be discovered outside the U.S., which could increase the available supply of natural gas outside the U.S. and could result in natural gas in those markets being available at a lower cost than that of LNG exported to those markets. The price of domestic natural gas, which is subject to change for reasons outside our control, also affects the competitiveness of U.S.-sourced LNG exports.

Additionally, the Rio Grande LNG Facility will be subject to the risk of LNG price competition at times when we need to replace any existing LNG sale and purchase contract, whether due to natural expiration, default or otherwise, or enter into new LNG sale and purchase contracts. Factors relating to competition may prevent us from entering into a new or replacement LNG sale and purchase contract on economically comparable terms as prior LNG sale and purchase contracts, or at all. Factors which may negatively affect potential demand for LNG from our liquefaction projects are diverse and include, among others:

- increases in worldwide LNG production capacity and availability of LNG for market supply;
- decreases in demand for LNG or increases in demand for LNG, but at levels below those required to maintain current price equilibrium with respect to supply;
- increases in the cost of natural gas feedstock supplied to any project;
- decreases in the cost of competing sources of natural gas or alternate sources of energy such as coal, heavy fuel oil, diesel, nuclear, hydroelectric, wind and solar;
- decrease in the price of non-U.S. LNG, including decreases in price as a result of contracts indexed to lower oil prices;
- increases in capacity and utilization of nuclear power and related facilities;
- increases in the cost of LNG shipping; and
- displacement of LNG by pipeline natural gas or alternate fuels in locations where access to these energy sources is not currently available.

Political instability in foreign countries that import natural gas, or strained relations between such countries and the U.S. may also impede the willingness or ability of LNG suppliers, purchasers and merchants in such countries to import LNG from the U.S. Furthermore, some foreign purchasers of LNG may have economic or other reasons to obtain their LNG from non-U.S. markets or our competitors' liquefaction facilities in the U.S.

As a result of these and other factors, LNG may not be a competitive source of energy internationally. The failure of LNG to be a competitive supply alternative to local natural gas, oil and other alternative energy sources in markets accessible to our customers could adversely affect the ability of our customers to deliver LNG from the U.S. on a commercial basis. Any significant impediment to the ability to deliver LNG from the U.S. generally or from the Rio Grande LNG Facility specifically could have a material adverse effect on our customers and our business, contracts, financial condition, operating results, cash flow, liquidity and prospects.

Decreases in the global demand for and price of natural gas (versus the price of imported LNG) could lead to reduced development of LNG projects worldwide.

We are subject to risks associated with the development, operation and financing of domestic LNG facilities. The development of domestic LNG facilities and projects is generally based on assumptions about the future price of natural gas and LNG and the conditions of the global natural gas and LNG markets. Natural gas and LNG prices have been, and are likely to remain in the future, volatile and subject to wide fluctuations that are difficult to predict. As a result, our activities will expose us to risks of commodity price movements, which we believe could be mitigated by entering into long-term LNG sales contracts. There can be no assurance that we will be successful in entering into or maintaining long-term LNG sales contracts. Additionally, the global LNG market could shift toward the use of shorter-term LNG sales contracts.

Fluctuations in commodity prices may create a mismatch between natural gas and petroleum prices, which could have a significant impact on our future revenues. Commodity prices and volumes are volatile due to many factors over which we have no control, including competing liquefaction capacity in North America; the international supply and receiving capacity of LNG; LNG marine transportation capacity; weather conditions affecting production or transportation of LNG from the Rio Grande LNG Facility; domestic and global demand for natural gas; the effect of government regulation on the production, transportation and sale of natural gas; oil and natural gas exploration and production activities; the development of and changes in the cost of alternative energy sources for natural gas and political and economic conditions worldwide.

Our activities are also dependent on the price and availability of materials for the construction of the Rio Grande LNG Facility, such as nickel, aluminum, pipe, and steel, which may be subject to import tariffs in the U.S. market and are all also subject to factors affecting commodity prices and volumes. In addition, authorities with jurisdiction over wholesale power rates in the U.S., Europe and elsewhere, as well as independent system operators overseeing some of these markets, may impose price limitations, bidding rules and other mechanisms which may adversely impact or otherwise limit trading

margins and lead to diminished opportunities for gain. We cannot predict the impact energy trading may have on our business, results of operations or financial condition.

Further, the development of the Rio Grande LNG Facility takes a substantial amount of time, requires significant capital investment, may be delayed by unforeseen and uncontrollable factors and is dependent on our financial viability and ability to market LNG internationally.

The reduction or elimination of government incentives could adversely affect our business, financial condition, future results and cash flows.

We expect our CCS projects, following successful construction and deployment, to generate revenue from a combination of sources, including fees from source facilities, government incentives and carbon credits. Government incentives include federal income tax credits under Section 45Q of the Internal Revenue Code, which currently provides a federal income tax credit per metric ton of carbon captured and permanently stored. The availability of these government incentives have a significant effect on the economics and viability of our CCS projects, and any reduction or elimination of such incentives could adversely affect the growth of our CCS business, our financial condition and our future results.

Competition in the industries in which we operate is intense, and some of our competitors have greater financial, technological and other resources.

We plan to operate in the highly competitive area of LNG production and face intense competition from independent, technology-driven companies as well as from both major and other independent oil and natural gas companies and utilities.

Many competing companies have secured access to, or are pursuing development or acquisition of, LNG facilities and deployment of carbon capture processes in North America. We may face competition from major energy companies and others in pursuing our proposed business strategy. Some of these competitors have longer operating histories, more development experience, greater name recognition, superior tax incentives, more employees and substantially greater financial, technical and marketing resources than we currently possess. NEXT Carbon Solutions will compete with other providers of CCS services, traditional original equipment manufacturers, EPC firms and midstream transportation and storage companies in offering CCS solutions. Our competitors in the CCS space may have greater financial, technical and marketing resources than we currently possess. The superior resources that some of these competitors have available for deployment could allow them to compete successfully against us, which could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.

There may be shortages of LNG vessels worldwide, which could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.

The construction and delivery of LNG vessels requires significant capital and long construction lead times, and the availability of the vessels could be delayed to the detriment of our business and customers due to the following:

- an inadequate number of shipyards constructing LNG vessels and a backlog of orders at these shipyards;
- political or economic disturbances in the countries where the vessels are being constructed;
- changes in governmental regulations or maritime self-regulatory organizations;
- work stoppages or other labor disturbances at the shipyards;
- bankruptcies or other financial crises of shipbuilders;
- quality or engineering problems;
- weather interference or catastrophic events, such as a major earthquake, tsunami, or fire; or
- shortages of or delays in the receipt of necessary construction materials.

We will rely on third-party engineers to estimate the future capacity ratings and performance capabilities of the Rio Grande LNG Facility and CCS projects, and these estimates may prove to be inaccurate.

We will rely on third parties for the design and engineering services underlying our estimates of the future capacity ratings and performance capabilities of the Rio Grande LNG Facility and CCS projects. Any of such facilities, when constructed, may not have the capacity ratings and performance capabilities that we intend or estimate. Failure of any of our facilities to achieve our intended capacity ratings and performance capabilities could prevent us from achieving the commercial start dates or otherwise impact the generation of revenue under our future commercial agreements and could have a material adverse effect on our business, contracts, financial condition, operating results, cash flow, liquidity and prospects.

Carbon credit markets may not develop as quickly or efficiently as we anticipate or at all.

The continued development of global carbon credit marketplaces will be crucial for the successful deployment of our CCS processes, as we expect carbon credits to be a significant source of future revenue. The efficiency of the voluntary carbon credit market is currently affected by several concerns, including insufficiency of demand, the risk that reduction credits could be counted multiple times and a lack of standardization of credit verification. Delayed development of a global carbon credit market could negatively impact the commercial viability of our CCS projects and could limit the growth of the business and adversely impact our financial condition and future results.

The operation of the Rio Grande LNG Facility and any CCS project may be subject to significant operating hazards and uninsured risks, one or more of which may create significant liabilities and losses that could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects.

The plan of operations for the Rio Grande LNG Facility is subject to the inherent risks associated with LNG operations, including explosions, pollution, release of toxic substances, fires, hurricanes and other adverse weather conditions, and other hazards, each of which could result in significant delays in commencement or interruptions of operations and/or result in damage to or destruction of the Rio Grande LNG Facility and assets or damage to persons and property. These risks may similarly affect CCS projects and their host facilities.

We do not, nor do we intend to, maintain insurance against all these risks and losses. We may not be able to maintain desired or required insurance in the future at rates that we consider reasonable. The occurrence of a significant event not fully insured or indemnified against could have a material adverse effect on our business, contracts, financial condition, operating results, cash flow, liquidity and prospects.

We are dependent on a limited number of customers for the purchase of LNG.

The number of potential LNG customers is limited. Some potential purchasers of the LNG to be produced from the Rio Grande LNG Facility are new to the LNG business and have limited experience in the industry. We will be reliant upon the ability of these customers to enter into satisfactory downstream arrangements in their home markets for the licenses to import and sell regasified LNG. Some of these jurisdictions are heavily regulated and dominated by state entities. In certain instances, customers may require credit enhancement measures in order to satisfy project-financing requirements.

Objections from local communities or environmental groups can delay the Rio Grande LNG Facility.

Some local communities and/or environmental groups have voiced opposition to the proposed construction and operation of the Rio Grande LNG Facility as negatively impacting the environment, wildlife, cultural heritage sites or the public health of residents. Objections from local communities or environmental groups could cause delays, limit access to or increase the cost of construction capital, cause reputational damage and impede us in obtaining or renewing permits. For instance, environmental activists have attempted to intervene in the permitting process of the Rio Grande LNG Facility and persuade regulators to deny necessary permits or seek to overturn permits that have been issued. These third-party actions can materially increase the costs and cause delays in the permitting process and could cause us to not proceed with the development of the Rio Grande LNG Facility.

The Rio Grande LNG Facility will be dependent on the availability of gas supply at the Agua Dulce supply area.

The Pipeline is expected to collect and transport natural gas to the Rio Grande LNG Facility. The header system at the upstream end of the Pipeline is expected to have multiple interconnects to the existing natural gas pipeline grid located in the Agua Dulce supply area (the "Agua Dulce Hub"). The Agua Dulce Hub includes deliveries from, but not limited to, ConocoPhillips' 1,100-mile South Texas intrastate and gas gathering pipeline system and ExxonMobil's 925 MMcf/d King Ranch processing facility. As the Pipeline system interconnects are expected to be relatively close to the Agua Dulce Hub, it is expected that gas will be available for purchase in large volumes at commercially acceptable prices. Nonetheless, disruptions in upstream supply sources or increased market demand could impact the availability of gas supply to the Pipeline header system, which would result in curtailments at the Rio Grande LNG Facility.

Each liquefaction train for the Rio Grande LNG Facility is expected to involve the transportation on the Pipeline for liquefaction of approximately 0.9 Bcf/day of natural gas, for a total of 4.5 Bcf/day for five liquefaction trains at full build-out. Gas sales agreements for the supply of these volumes could entail negotiations with multiple parties for firm and interruptible gas supply and transportation services to the Pipeline header system, as well as pipeline interconnects and ancillary operational agreements. Delays caused by third parties in the course of negotiating agreements and constructing the required interconnects could delay the start of commercial operations for the Rio Grande LNG Facility.

Litigation could expose us to significant costs and adversely affect our business, financial condition, and results of operations.

We are, or may become, party to various lawsuits, arbitrations, mediations, regulatory proceedings and claims, which may include lawsuits, arbitrations, mediations, regulatory proceedings or claims relating to commercial liability, product recalls, product liability, product claims, employment matters, environmental matters, breach of contract, intellectual property, indemnification, stockholder suits, derivative actions or other aspects of our business.

Litigation (including the other types of proceedings identified above) is inherently unpredictable, and although we may believe we have meaningful defenses in these matters, we may incur judgments or enter into settlements of claims that could have a material adverse effect on our business, financial condition, and results of operations. The costs of responding to or defending litigation may be significant and may divert the attention of management away from our strategic objectives. There may also be adverse publicity associated with litigation that may decrease customer confidence in our business or our management, regardless of whether the allegations are valid or whether we are ultimately found liable.

Risks Related to Governmental Regulation

The construction and operation of the Rio Grande LNG Facility remains subject to further governmental approvals, and some approvals may be subject to further conditions, review and/or revocation and other legal and regulatory risks, which may result in delays, increased costs or decreased cash flows.

We are required to obtain governmental approvals and authorizations to implement our proposed business strategy, which includes the design, construction and operation of the Rio Grande LNG Facility and the export of LNG from the U.S. to foreign countries. As described above under “Business– Governmental Permits, Approvals and Authorizations,” the design, construction and operation of LNG export facilities is a highly regulated activity in the U.S., subject to a number of permitting requirements, regulatory approvals and ongoing safety and operational compliance programs. There is no guarantee that we will obtain or, once obtained, maintain these governmental authorizations, approvals and permits. While the FERC has authorized the construction and operation of the Rio Grande LNG Facility, additional approvals from FERC Staff will be required as we proceed with its construction and commissioning. Failure to obtain, or failure to obtain on a timely basis, or failure to maintain any of these governmental authorizations, approvals and permits could have a material adverse effect on our business, results of operations, financial condition and prospects.

Authorizations obtained from the FERC, the DOE and other federal and state regulatory agencies also contain ongoing conditions and compliance requirements, and additional approval and permit requirements may be imposed. We do not know whether or when any such approvals or permits can be obtained, or whether any existing or potential interventions or other actions by third parties will interfere with our ability to obtain and maintain such permits or approvals. If we are unable to obtain and maintain the necessary approvals and permits, including as a result of untimely notices or filings, we may not be able to recover our investment in the Rio Grande LNG Facility. Additionally, government disruptions, such as a U.S. government shutdown or the lack of quorum to issue decisions in regulatory agencies, may delay or halt our ability to obtain and maintain necessary approvals and permits. There is no assurance that we will obtain and maintain these governmental permits, approvals and authorizations, or that we will be able to obtain them on a timely basis, and failure to obtain and maintain any of these permits, approvals or authorizations could have a material adverse effect on our business, contracts, financial condition, operating results, cash flow, liquidity and prospects. In the future, additional regulatory approvals may be required or significant costs may be incurred due to changes in laws and regulations or for other reasons.

In addition, some of these governmental authorizations, approvals and permits require extensive environmental review. We cannot predict or control whether our authorizations, approvals or permits will attract significant opposition or whether the permitting process will be lengthened due to complexities and appeals. Some groups have perceived, and other groups could perceive, that the proposed construction and operation of the Rio Grande LNG Facility could negatively impact the environment or cultural heritage sites. Objections from such groups could cause delays, damage to reputation and difficulties in obtaining governmental authorizations, approvals or permits or prevent the obtaining of such authorizations, approvals or permits altogether. Although the necessary authorizations, approvals and permits to construct and operate the Rio Grande LNG Facility have been obtained, such authorizations, approvals and permits may be subject to ongoing conditions imposed by regulatory agencies or may be subject to legal proceedings not involving us, which is customary for U.S. LNG projects.

The Rio Grande LNG Facility will be subject to a number of environmental laws and regulations that impose significant compliance costs, and existing and future environmental and similar laws and regulations could result in increased compliance costs, liabilities or additional operating restrictions.

Our business will be subject to extensive federal, state and local regulations and laws, including regulations and restrictions on discharges and releases to the air, land and water and the handling, storage and disposal of hazardous materials and wastes in connection with the development, construction and operation of the Rio Grande LNG Facility. Failure to comply with these regulations and laws could result in the imposition of administrative, civil and criminal sanctions.

These regulations and laws, which include the federal Clean Air Act, the Oil Pollution Act, the National Environmental Policy Act, the Clean Water Act, the Safe Drinking Water Act, the Endangered Species Act, the Natural Gas Pipeline Safety Act and the Resource Conservation and Recovery Act, and analogous state and local laws and regulations, will restrict, prohibit or otherwise regulate the types, quantities and concentration of substances that can be released into the environment in connection with the construction and operation of our facilities. Additionally, these regulations and laws will require and have required us to obtain and maintain permits, with respect to our facilities, prepare environmental impact assessments, provide governmental authorities with access to our facilities for inspection and provide reports related to compliance. Violation of these laws and regulations could lead to substantial liabilities, fines and penalties, the denial or revocation of permits necessary for our operations, governmental orders to shut down our facilities or to capital expenditures related to pollution control or remediation equipment that could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects. Federal and state laws impose liability, without regard to fault or the lawfulness of the original conduct, for the release of certain types or quantities of hazardous substances into the environment. As the owner and operator of the Rio Grande LNG Facility and CCS systems, we could be liable for the costs of cleaning up hazardous substances released into the environment and for damage to natural resources.

In addition, future federal, state and local legislation and regulations, such as regulations regarding greenhouse gas emissions, the transportation of LNG, and the sequestration of carbon dioxide may impose unforeseen burdens and increased costs on our business that could have a material adverse effect on our financial results. As an international shipper of LNG, our operations could also be impacted by environmental laws applicable under international treaties or foreign jurisdictions.

Unethical conduct and non-compliance with applicable laws could have a significant adverse effect on our business.

Incidents of unethical behavior, fraudulent activity, corruption or non-compliance with applicable laws and regulations could be damaging to our operations and reputation and may subject us to criminal and civil penalties or loss of operating licenses. Due to the global nature of the LNG business and the diversity of jurisdictions in which our customers operate, it is possible that a prospective counterparty could be accused of behavior that falls short of our expectations in this regard, leading to reputational damage and potential legal liabilities, notwithstanding our best efforts to prevent such behaviors.

Changes in legislation and regulations or interpretations thereof, such as those relating to the importation and exportation of LNG and incentives for reduction of emissions, could have a material adverse effect on our business, results of operations, financial condition, liquidity and prospects and could cause additional expenditures and delays in connection with the Rio Grande LNG Facility and CCS projects and their construction.

The laws, rules and regulations applicable to our business, including federal agencies' interpretations of and policies under such laws rules and regulations, are subject to change, either through new or modified regulations enacted on the federal, state or local level or by a change in policy of the agencies charged with enforcing such regulations. For example, the provisions of the Energy Policy Act of 2005 that codified the FERC's policy of not regulating the terms and conditions of service for LNG import or export facilities expired in 2015. Although the FERC has not indicated that it intends to depart from this policy, there can be no assurance it will not do so in the future. The nature and extent of any changes in these laws, rules, regulations and policies may be unpredictable and may have material adverse effects on our business. Future legislation and regulations or changes in existing legislation and regulations, or interpretations thereof, such as those relating to (i) the liquefaction, storage, or regasification of LNG, or its transportation, and (ii) the capture of CO₂, its transportation and sequestration, could cause additional expenditures, restrictions and delays in connection with our operations as well as other future projects, the extent of which cannot be predicted and which may require us to limit substantially, delay or cease operations in some circumstances. Revised, reinterpreted or additional laws and regulations that result in increased compliance costs or additional operating costs and restrictions could have a material adverse effect on our business, the ability to expand our business, including into new markets, results of operations, financial condition, liquidity and prospects.

In addition, our CCS systems may benefit from federal, state and local governmental incentives, mandates or other programs promoting the reduction of emissions. Any changes to or termination of these programs could reduce demand for our CCS systems, impair our ability to obtain financing, and adversely impact our business, financial condition and results of operations.

We may not be able to utilize any future federal income tax credits.

Our LNG and CCS activities are in the construction stage and development stage, respectively, and have not historically generated any revenue; consequently, as of December 31, 2023, we had significant deferred tax assets primarily resulting from net operating losses for federal income tax purposes. See Note 15 — *Income Taxes* in Notes to Consolidated Financial Statements. To the extent we are not able to monetize federal income tax credits that we generate under Section 45Q or a successor provision, either by transferring such credit or electing to receive a direct payment equal to such credit, we would have to take such federal income tax credits against our taxable income. There is no assurance that we will be able to transfer these federal income tax credits or generate taxable income or otherwise be able to monetize the value represented by these federal income tax credits.

Our ability to utilize our net operating loss carryforwards ("NOLs") may be limited as a result of ownership changes under Section 382 of the Code.

The Tax Reform Act of 1986 (as amended) contains provisions that limit the utilization of NOL and tax credit carryforwards if there has been a change in ownership as described in Section 382 of the Internal Revenue Code ("Section 382"). Such an ownership change occurs if the aggregate stock ownership of certain stockholders, generally stockholders beneficially owning five percent or more of a corporation's common stock, applying certain look-through and aggregation rules, increases by more than 50 percentage points over such stockholders' lowest percentage ownership during the testing period, generally three years. Substantial changes in the Company's ownership have occurred that may limit or reduce the amount of NOL carryforwards that the Company could utilize in the future to offset taxable income. At December 31, 2023, we had federal net operating loss ("NOL") carryforwards of approximately \$260.7 million. Approximately \$26.1 million of these NOL carryforwards will expire between 2034 and 2038.

Limitations imposed on our ability to use NOLs to offset future taxable income may cause U.S. federal income taxes to be paid earlier than otherwise would be paid if such limitations were not in effect and could cause such NOLs and other tax attributes to expire unused. Similar rules and limitations may apply for state and foreign income tax purposes. If we experience such an ownership change, it is possible that a significant portion of our tax attributes could be limited for use to offset future taxable income.

Risks Relating to our Securities

Our common stock could be delisted from Nasdaq.

Our common stock is currently listed on Nasdaq. However, we cannot assure you that we will be able to comply with the continued listing standards of Nasdaq. If we fail to comply with the continued listing standards of Nasdaq, our common stock may become subject to delisting. If Nasdaq delists our common stock from trading on its exchange for failure to meet the continued listing standards, we and our stockholders could face significant material adverse consequences including:

- a limited availability of market quotations for our securities;
- a limited amount of analyst coverage; and
- a decreased ability for us to issue additional securities or obtain additional financing in the future.

The market price of our common stock has fluctuated in the past and is likely to fluctuate in the future. Holders of our common stock could lose all or part of their investment.

The securities markets in general and our common stock have experienced significant price and volume volatility. The market price and trading volume of our common stock may continue to experience significant fluctuations due not only to general stock market conditions but also to a change in sentiment in the market regarding our operations, business prospects or those of companies in our industry. In addition to the other risk factors discussed in this section, the price and volume volatility of our common stock may be affected by:

- domestic and worldwide supply of and demand for natural gas and corresponding fluctuations in the price of natural gas;
- fluctuations in our quarterly or annual financial results or those of other companies in our industry;
- issuance of additional equity securities which causes further dilution to stockholders;

- sales of a high volume of shares of our common stock by our stockholders (including sales by our directors, executive officers, and other employees) or the perception or expectation that such sales may occur;
- short sales, hedging, and other derivative transactions on shares of our common stock;
- the volume of shares of our common stock available for public sale;
- operating and stock price performance of companies that investors deem comparable to us;
- events affecting other companies that the market deems comparable to us;
- changes in government regulation or proposals applicable to us;
- actual or potential non-performance by any customer or a counterparty under any agreement;
- announcements made by us or our competitors of significant contracts;
- changes in accounting standards, policies, guidance, interpretations or principles;
- general conditions in the industries in which we operate;
- general economic conditions; and
- the failure of securities analysts to cover our common stock or changes in financial or other estimates by analysts.

The stock prices of companies in the LNG industry have experienced wide fluctuations that have often been unrelated to the operating performance of these companies. Following periods of volatility in the market price of a company's securities, securities class action litigation often has been initiated against a company. If any class action litigation is initiated against us, we may incur substantial costs and our management's attention may be diverted from our operations, which could materially adversely affect our business and financial condition.

Raising additional capital may cause dilution to existing stockholders, restrict our operations or require us to relinquish rights. Additionally, sales of a substantial number of shares of our common stock or other securities in the public market could cause our stock price to fall.

We may seek the additional capital necessary to fund our operations through public or private equity offerings and debt financings. To the extent that we raise additional capital through the sale of equity or convertible debt securities, existing stockholders' ownership interests will be diluted, and the terms may include liquidation or other preferences that adversely affect their rights as a stockholder. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions such as incurring additional debt, making capital expenditures or declaring dividends. In addition, sales of a substantial number of shares of our common stock or other securities in the public market could occur at any time. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock.

Our Second Amended and Restated Certificate of Incorporation grants our board of directors the power to designate and issue additional shares of common and/or preferred stock.

Our authorized capital consists of 480,000,000 shares of common stock and 1,000,000 shares of preferred stock. Our preferred stock may be designated into series pursuant to authority granted by our Second Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation"), and on approval from our board of directors (the "Board of Directors" or "Board"). The Board of Directors, without any action by our common stockholders, may designate and issue additional shares of preferred stock in such classes or series as it deems appropriate and establish the rights, preferences and privileges of such shares, including dividends, liquidation and voting rights. The rights of holders of other classes or series of stock that may be issued could be superior to the rights of holders of our common stock. The designation and issuance of shares of capital stock having preferential rights could adversely affect other rights appurtenant to shares of our common stock.

Our largest stockholders will substantially influence our Company for the foreseeable future, including the outcome of matters requiring shareholder approval, and such control may prevent you and other stockholders from influencing significant corporate decisions and may result in conflicts of interest that could cause our stock price to decline.

As of March 4, 2024, affiliates of York Capital Management, L.P., TotalEnergies SE, Valinor Capital Partners, L.P., HGC NEXT INV LLC and Nineteenth Investment Company (collectively, the “Large Stockholders”) beneficially own, in the aggregate, approximately 60% of the combined voting power of our outstanding shares of common stock. Additionally, four members of our Board of Directors are affiliated with certain of Large Stockholders. As a result, the Large Stockholders have the ability to influence the election of our directors and the outcome of corporate actions requiring stockholder approval, such as: (i) a merger or a sale of our Company, (ii) a sale of all or substantially all of our assets, and (iii) amendments to our articles of incorporation and bylaws. This concentration of voting power and control could have a significant effect in delaying, deferring or preventing an action that might otherwise be beneficial to our other stockholders and be disadvantageous to our stockholders with interests different from those entities and individuals. The Large Stockholders also have significant control over our business, policies and affairs by their affiliates serving as directors of our Company. They may also exert influence in delaying or preventing a change in control of the Company, even if such change in control would benefit the other stockholders of the Company. In addition, the significant concentration of stock ownership may adversely affect the market value of the Company's common stock due to investors' perception that conflicts of interest may exist or arise.

The exercise of outstanding warrants may have a dilutive effect on our common stock.

We issued warrants together with the issuances of our Convertible Preferred Stock (the “Common Stock Warrants”). As of December 31, 2023, the outstanding Common Stock Warrants represented the right to acquire in the aggregate a number of shares of our common stock equal to approximately 71 basis points (0.71%) of all outstanding shares of Company common stock, measured on a fully diluted basis, on the applicable exercise date with a strike price of \$0.01 per share.

The Common Stock Warrants have a fixed three-year term that commenced on the closings of the issuances of the associated Convertible Preferred Stock. The Common Stock Warrants may only be exercised by holders of the Common Stock Warrants at the expiration of such three-year term.

To the extent the Common Stock Warrants are exercised, additional shares of our common stock will be issued, which will result in dilution to the holders of our common stock and increase the number of shares eligible for resale in the public market. Sales of substantial numbers of such shares in the public market or the fact that such warrants may be exercised could adversely affect the market price of our common stock.

Provisions of our charter documents or Delaware law could discourage, delay or prevent us from being acquired even if being acquired would be beneficial to our stockholders and could make it more difficult to change management.

Provisions of the Certificate of Incorporation and our Amended and Restated Bylaws (the “Bylaws”) may discourage, delay or prevent a merger, acquisition or other change in control that stockholders might otherwise consider favorable, including transactions in which stockholders might otherwise receive a premium for their shares. In addition, these provisions may frustrate or prevent any attempt by our stockholders to replace or remove our current management by making it more difficult to replace or remove our Board of Directors. Among other things, these provisions include:

- elimination of our stockholders' ability to call special meetings of stockholders;
- elimination of our stockholders' ability to act by written consent;
- an advance notice requirement for stockholder proposals and nominations for members of our Board of Directors;
- a classified Board of Directors, the members of which serve staggered three-year terms;
- the express authority of our Board of Directors to make, alter or repeal the Bylaws;
- the authority of our Board of Directors to determine the number of director seats on our Board of Directors; and
- the authority of our Board of Directors to issue preferred stock with such terms as it may determine.

In addition, the Certificate of Incorporation provides, subject to limited exceptions, that the Court of Chancery of the State of Delaware will, to the fullest extent permitted by law, be the sole and exclusive forum for any claims, including (i) any derivative actions or proceedings brought on our behalf, (ii) any action asserting a claim of a breach of a fiduciary duty owed by, or any wrongdoing by, a director, officer or employee or (iii) any action asserting a claim pursuant to any provision of the Delaware General Corporation Law, the Certificate of Incorporation or the Bylaws, (iv) any action to interpret, apply, enforce or determine the validity of the Certificate of Incorporation or the Bylaws or (v) any action asserting a claim governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of and to have consented to the provisions described above. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find the choice of forum provision that is contained in the Certificate of Incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could adversely affect our business, operating results and financial condition.

Increasing attention to environmental, social and governance matters may impact our business, financial results or stock price and climate change concerns may pose challenges to our operating model.

In recent years, increasing attention has been given to corporate activities related to environmental, social and governance matters in public discourse and the investment community. A number of advocacy groups, both domestically and internationally, have campaigned for governmental and private action to promote change at public companies related to ESG matters, including through the investment and voting practices of investment advisers, public pension funds, universities and other members of the investing community. These activities include increasing attention and demands for action related to climate change, promoting the use of substitutes to fossil fuel products, and encouraging the divestment of companies in the fossil fuel industry. These activities could negatively impact negotiations with potential customers or financial counterparties, reduce demand for our products, reduce our profits, increase the potential for investigations and litigation, impair our brand and have negative impacts on the price of our common stock and access to capital markets.

In October 2020, we announced that we have developed proprietary CCS processes, which we intend to deploy at the Rio Grande LNG Facility to significantly reduce its expected CO₂ emissions. However, the Rio Grande LNG Facility CCS project may ultimately be unsuccessful or, even if successful, may not satisfy the demands or expectations of certain members of the investing community focused on ESG matters.

In addition, organizations that provide information to investors on corporate governance and related matters have developed ratings systems for evaluating companies on their approach to ESG matters. Recently, there has been an acceleration in investor demand for ESG investing opportunities, and many large institutional investors have committed to increasing the percentage of their portfolios that are allocated towards ESG-focused investments. As a result, there has been a proliferation of ESG-focused investment funds seeking ESG-oriented investment products. If we are unable to meet the ESG ratings or investment or lending criteria set by these investors and funds, we may lose investors, investors may allocate a portion of their capital away from us, our cost of capital may increase, the price of our common stock may be negatively impacted, and our reputation may also be negatively affected.

Furthermore, we also could face an increased risk of climate-related litigation suits with respect to our operations or disclosures. Claims have been made against certain energy companies alleging that greenhouse gas emissions from oil, gas and LNG operations constitute a public nuisance under federal and state law. Private individuals or public entities also could attempt to enforce environmental laws and regulations against us and could seek personal injury and property damages or other remedies. Additionally, governments and private parties are also increasingly filing suits, or initiating regulatory action, based on allegations that certain public statements regarding ESG-related matters by companies are false and misleading "greenwashing" campaigns that violate deceptive trade practices and consumer protection statutes or that climate-related disclosures made by companies are inadequate. Similar issues can also arise when aspirational statements such as net-zero or carbon neutrality targets are made without clear plans. Although we are not a party to any such climate-related or "greenwashing" litigation currently, unfavorable rulings against us in any such case brought against us in the future could significantly impact our operations and could have an adverse impact on our financial condition.

General Risk Factors

The COVID-19 pandemic, Russia-Ukraine conflict, conflict in the Middle East and other sources of volatility in the energy markets may materially and adversely affect our business, financial condition, operating results, cash flow, liquidity and prospects, including our efforts to reach a final investment decision with respect to the Rio Grande LNG Facility.

The COVID-19 pandemic has resulted in significant disruption globally. Actions taken by various governmental authorities, individuals and companies around the world to prevent the spread of COVID-19 have restricted travel, business operations, and the overall level of individual movement and in-person interaction across the globe. Furthermore, the impact of the pandemic, including its effect on the demand for natural gas, led to significant global economic contraction generally and in our industry in particular. Prospects for the development and financing of the Rio Grande LNG Facility are based in part on factors including global economic conditions that have been, and are likely to continue to be, adversely affected by the COVID-19 pandemic.

The COVID-19 pandemic has caused us to modify our business practices, including by restricting employee travel, requiring employees to work remotely and cancelling physical participation in meetings, events and conferences, and we may take further actions as may be required by government authorities or that we determine are in the best interests of our employees, customers and business partners. There is no certainty that such measures will be sufficient to mitigate the risks posed by COVID-19 or otherwise be satisfactory to government authorities. If a number of our employees were to contract COVID-19 at the same time, our operations could be adversely affected.

In February 2022, Russia, one of the world's largest producers of natural gas, launched an invasion of Ukraine. These actions resulted in a number of countries, including the United States and members of the European Union, announcing sanctions against Russia. Additionally, the Nord Stream 2 gas pipeline project, which was built to provide 55 billion cubic meters of natural gas to Europe annually, has been affected by geopolitical issues and incurred damage that has been investigated as possible sabotage. The current geopolitical climate in Europe is unstable and conflict may further escalate. While it is difficult to anticipate the impact the sanctions announced to date may have on our operations, any further sanctions imposed or actions taken by the U.S. or other countries, and any retaliatory measures by Russia in response, such as restrictions on energy supplies from Russia to countries in the region, could have a significant and uncertain impact on the natural gas industry. In addition, the Israel-Hamas war and maritime attacks in the Red Sea have caused further geopolitical uncertainty, especially as it related to the energy industry.

A sustained disruption in the capital markets from the COVID-19 pandemic or the Russia-Ukraine conflict and hostilities in the Middle East, specifically with respect to the energy industry, could negatively impact our ability to raise capital. In the past, we have financed our operations by the issuance of equity and equity-based securities. However, we cannot predict when macro-economic disruption stemming from COVID-19 or outbreaks of variants of the virus or geopolitical uncertainty may occur. This macro-economic disruption may disrupt our ability to raise additional capital to finance our operations in the future, which could materially and adversely affect our business, financial condition and prospects, and could ultimately cause our business to fail.

The COVID-19 pandemic and Russia-Ukraine conflict may also have the effect of heightening many of the other risks described in this Annual Report on Form 10-K, such as risks related to the development of the CCS projects and the Rio Grande LNG Facility, including postponement in making a positive FID on the Rio Grande LNG Facility, doing business in foreign countries, obtaining governmental approvals, and exported LNG remaining a competitive source of energy for international markets, global demand for and price of natural gas, and fluctuation in the price of our common stock.

The extent to which COVID-19 ultimately impacts our business, results of operations and financial condition depends on future developments, which are uncertain and cannot be predicted, including, but not limited to, the duration and spread of COVID-19, its severity, the actions to contain COVID-19 or treat its impact, and how quickly and to what extent normal economic and operating conditions can resume. Additionally, the ultimate outcome of Russia's invasion of Ukraine, including resulting tensions among the United States, North Atlantic Treaty Organization and Russia, disruption to the production and supply of natural gas throughout Europe, cyberwarfare and economic instability, could impact our operations or disrupt our ability to access the capital markets. The duration of the impact of the COVID-19 pandemic, the Russia-Ukraine conflict and hostilities in the Middle East is uncertain, and we may continue to experience materially adverse impacts to our business as a result of their global economic impact, including any recession that has occurred or may occur in the future, and lasting effects on the price of natural gas.

Cyberattacks targeting systems and infrastructure used in our business may adversely impact our operations.

We depend on digital technology in many aspects of our business, including the processing and recording of financial and operating data, analysis of information, and communications with our employees and third parties. Cyberattacks on our systems and those of third-party vendors and other counterparties occur frequently and have grown in sophistication. A successful cyberattack on us or a vendor or other counterparty could have a variety of adverse consequences, including theft of proprietary or commercially sensitive information, data corruption, interruption in communications, disruptions to our existing or planned activities or transactions, and damage to third parties, any of which could have a material adverse impact on us. Further, as cyberattacks continue to evolve, we may be required to expend significant additional resources to continue to modify or enhance our protective measures or to investigate and remediate any vulnerabilities to cyberattacks.

Terrorist attacks, including cyberterrorism, or military campaigns involving us or our projects could result in delays in, or cancellation of, construction or closure of the Rio Grande LNG Facility.

A terrorist or military incident involving the Rio Grande LNG Facility or any industrial facility that hosts a CCS project may result in delays in, or cancellation of, construction of the Rio Grande LNG Facility or the relevant CCS project, which would increase our costs and prevent us from obtaining expected cash flows. A terrorist incident could also result in temporary or permanent closure of the Rio Grande LNG Facility or such host industrial facility, which could increase costs and decrease cash flows, depending on the duration of the closure. Operations at the Rio Grande LNG Facility and CCS projects could also become subject to increased governmental scrutiny that may result in additional security measures at a significant incremental cost. In addition, the threat of terrorism and the impact of military campaigns may lead to continued volatility in prices for natural gas that could adversely affect our business and customers, including the ability of our suppliers or customers to satisfy their respective obligations under our commercial agreements. Instability in the financial markets as a result of terrorism, including cyberterrorism, or war, including the Russia-Ukraine conflict or hostilities in the Middle East, could also materially adversely affect our ability to raise capital. The continuation of these developments may subject our construction and operations to increased risks, as well as increased costs, and, depending on their ultimate magnitude, could have a material adverse effect on our business, contracts, financial condition, operating results, cash flow, liquidity and prospects.

Item 1B. Unresolved Staff Comments

None.

Item 1C. Cybersecurity

Risk Management and Strategy

Our cybersecurity program is an important component of our broader risk management strategy in which cyber risk has been identified and is actively managed with preventive and mitigating measures. We design and assess our cybersecurity program based on the National Institute of Standards and Technology's Cybersecurity Framework, ISO 27001, and industry-specific regulations. This does not imply that we meet any particular technical standards, specification or requirements, but rather that we use these frameworks as a guide to help us identify, assess and manage cybersecurity risks relevant to our business.

On an ongoing basis, we assess our people, processes, and technology, and when necessary, modify the overall program in order to meet the demands of the ever-changing cyber risk environment. As part of our regular training and readiness program, we conduct phishing and penetration testing campaigns in order to ensure that our employees are familiar with all types of phishing emails and similar threats.

Our data is dynamically backed up to mitigate against data loss. To prevent unauthorized access and data breaches, we encrypt sensitive data both in transit and at rest and we have also implemented access controls and multi-factor authentication to ensure that only authorized personnel can access sensitive information. We also utilize third-party information technology systems vendors to conduct constant network and endpoint monitoring.

We develop and implement robust cybersecurity policies and procedures that address access control, data encryption, use of assets, and data protection. We ensure that all employees, contractors, and third-party vendors adhere to these policies and receive training on cybersecurity best practices.

Governance

Our cybersecurity function resides within the broader security function and reports to the Vice President of Health, Safety, Security & Environmental ("VP HSSE"), who is responsible for the delivery of a robust and risk-based cybersecurity program. The Senior Manager of Cybersecurity, reporting to the VP HSSE, is responsible for all activities, including improvements, incident response, and investigation. Cyber governance oversight is provided by the Audit Committee of the Board of Directors. The Audit Committee discusses with management our cybersecurity risk exposures and the steps management has taken to mitigate such exposures, including our risk assessment and risk management policies.

Incident Response Reporting

Our strength in incident response reporting lies in our proactive and transparent approach to addressing cybersecurity incidents swiftly and effectively. We focus on preventative measures to reduce the likelihood of a cybersecurity incident and we have a robust response and recovery program and a cross-functional response team, which would be activated in the event of an incident to manage and reduce the escalation of the incident. We have established a robust incident response framework that enables us to detect, respond to, and mitigate threats with precision and speed. Our strategy involves clear communication channels, defined roles and responsibilities, and regular drills and simulations to ensure readiness.

When an incident occurs, we adhere to strict reporting protocols, promptly notifying appropriate regulatory authorities and affected customers and stakeholders, while maintaining transparency and accountability throughout the process, which allows us to not only mitigate the impact of cyber threats but also demonstrate our commitment to cybersecurity risk prevention and response.

During the year ended December 31, 2023, there were no cybersecurity incidents or threats that materially affected our business, results of operations or financial condition.

Item 2. Properties

We currently lease approximately 90,000 square feet of office space for general and administrative purposes in Houston, Texas under a lease agreement that expires on December 31, 2035.

Rio Grande has entered into a lease agreement (the "Rio Grande Site Lease") with the Brownsville Navigation District of Cameron County, Texas ("BND") pursuant to which Rio Grande has leased approximately 984 acres of land situated in Brownsville, Cameron County, Texas for the purposes of constructing, operating, and maintaining the Rio Grande LNG Facility and gas treatment and gas pipeline facilities. The initial term of the Rio Grande Site Lease expires on July 12, 2053 (the "Primary Term"). Rio Grande has the option to renew and extend the term of the Rio Grande Site Lease beyond the Primary Term for up to two consecutive renewal periods of ten years each provided that it has not caused an event of default under the Rio Grande Site Lease.

We do not own or lease any other real property that is materially important to our business. We believe that our current properties are adequate for our current needs and that additional office space will be available when and as needed.

Item 3. Legal Proceedings

As of December 31, 2023, management was not aware of any claims or legal actions that, separately or in the aggregate, are likely to have a material adverse effect on the Company's financial position, results of operations or cash flows, although the Company cannot guarantee that a material adverse event will not occur.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

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

Market Information, Holders and Dividends

Our common stock trades on Nasdaq under the symbol "NEXT."

As of March 4, 2024, 256.7 million shares of Company common stock were outstanding held by approximately 68 record owners. All shares of Company common stock held in street name are recorded in our stock register as being held by one stockholder.

We currently intend to retain earnings to finance the growth and development of our business and do not anticipate paying any cash dividends on Company common stock in the foreseeable future. Any future change in our dividend policy will be made at the discretion of our Board of Directors in light of our financial condition, capital requirements, earnings, prospects and any restrictions under any financing agreements, as well as other factors it deems relevant.

Purchase of Equity Securities by the Issuer

The following table summarizes stock repurchases for the three months ended December 31, 2023:

Period	Total Number of Shares Purchased ⁽¹⁾	Average Price Paid Per Share ⁽²⁾	Total Number of Shares Purchased as a Part of Publicly Announced Plans	Maximum Number of Units That May Yet Be Purchased Under the Plans
October 2023	—	\$ —	—	—
November 2023	609	\$ 4.35	—	—
December 2023	3,247	\$ 5.23	—	—

⁽¹⁾ Represents shares of Company common stock surrendered to us by participants in our 2017 Omnibus Incentive Plan (the "2017 Plan") to settle the participants' personal tax liabilities that resulted from the lapsing of restrictions on shares awarded to the participants under the 2017 Plan.

⁽²⁾ The price paid per share of Company common stock was based on the closing trading price of Company common stock on the dates on which we repurchased shares of Company common stock from the participants under the 2017 Plan.

Item 6. [Reserved]

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

Introduction

The following discussion and analysis presents management's view of our business, financial condition and overall performance and should be read in conjunction with our Consolidated Financial Statements and the accompanying notes in "Financial Statements and Supplementary Data." This information is intended to provide investors with an understanding of our past performance, current financial condition and outlook for the future. Our discussion and analysis include the following subjects:

- Overview of Business
- Overview of Significant Events
- Liquidity and Capital Resources
- Contractual Obligations
- Results of Operations
- Summary of Critical Accounting Estimates
- Recent Accounting Standards

Overview of Business

NextDecade Corporation engages in construction and development activities related to the liquefaction and sale of LNG and the capture and storage of CO₂ emissions. We are constructing and developing a natural gas liquefaction and export facility located in the Rio Grande Valley in Brownsville, Texas (the "Rio Grande LNG Facility"), which currently has three liquefaction trains and related infrastructure ("Phase 1") under construction, and two additional liquefaction trains in development. We are also developing a planned carbon capture and storage ("CCS") project at the Rio Grande LNG Facility and other potential CCS projects that would be located at third-party industrial facilities through our NEXT Carbon Solutions business.

Overview of Significant Events

Development and Construction

- On July 12, 2023, the Company announced a positive FID to construct Phase 1 of the Rio Grande LNG Facility, and Rio Grande issued full notice to proceed ("NTP") to Bechtel under the EPC contracts for Phase 1.
 - Expected capital project costs total \$18.0 billion and include EPC costs, owner's costs and contingencies, dredging for the Brazos Island Harbor Channel Improvement Project, conservation of more than 4,000 acres of wetland, installation of utilities, and interest during construction and other financing costs..
- Under the EPC contracts with Bechtel, Phase 1 progress is tracked for Train 1, Train 2, and the common facilities on a combined basis and Train 3 on a separate basis. As of January 2024:
 - The overall project completion percentage for Trains 1 and 2 and the common facilities of the Rio Grande LNG Facility was 14.3%, which is in line with the schedule under the EPC contract. Within this project completion percentage, engineering was 47.9% complete, procurement was 26.8% complete, and construction was 1.0% complete.
 - The overall project completion percentage for Train 3 of the Rio Grande LNG Facility was 4.4%, based on preliminary schedules, which is also in line with the schedule under the EPC contract. Within this project completion percentage, engineering was 3.4% complete, procurement was 10.6% complete, and construction was 0.0% complete.

Strategic and Commercial

- In January 2023, Rio Grande entered into a 15-year LNG SPA with Itochu Corporation ("Itochu") for the supply of 1.0 MTPA of LNG, indexed to Henry Hub and sold on a free-on-board ("FOB") basis from the Rio Grande LNG Facility.

- In June 2023, Rio Grande entered into a 20-year LNG SPA with TotalEnergies SE ("TotalEnergies") for the supply of 5.4 MTPA of LNG, indexed to Henry Hub and sold on an FOB basis from the Rio Grande LNG Facility.
- We have started the front-end engineering and design ("FEED") and EPC contract processes with Bechtel for Train 4 and are progressing numerous discussions with potential buyers of LNG to provide commercial support for Train 4.

Financial

- In February 2023, we sold approximately 5.8 million shares of our common stock for gross proceeds of \$35 million to HGC NEXT INV LLC and Ninteenth Investment Company.
- In June 2023, we entered into a common stock purchase agreement for three private placements with Global LNG North America Corp., an affiliate of TotalEnergies, pursuant to which we sold a total of approximately 44.9 million shares of our common stock for an aggregate purchase price of \$219.4 million in three transactions occurring in June, July and September 2023.
- On July 12, 2023, in conjunction with the positive FID of Phase 1 of the Rio Grande LNG Facility, we and certain of our subsidiaries closed an approximately \$18.4 billion project financing for Phase 1. This financing underscores the critical role that LNG and natural gas are expected to play in the global energy transition and included the closing of:
 - A joint venture agreement which included approximately \$5.9 billion of financial commitments from Global Infrastructure Partners (GIP), GIC, Mubadala Investment Company, and TotalEnergies;
 - A commitment by the Company to invest approximately \$283 million in Phase 1, which was completed in September 2023 and included \$125 million of pre-FID capital investments and additional funds contributed from the proceeds of sales of the Company's common stock to an affiliate of TotalEnergies;
 - Senior secured non-recourse bank credit facilities of \$11.6 billion with a 7-year maturity, consisting of \$11.1 billion in construction term loans and a \$500 million working capital facility; and
 - An offering of \$700 million senior secured non-recourse private placement notes, which will mature in July 2033 and will accrue interest at a fixed rate of 6.67%.
- We hold equity interests in the Phase 1 joint venture that entitle us to receive up to 20.8% of the distributions of available cash during operations.
- Rio Grande has entered into several transactions to refinance a portion of the Phase 1 bank facilities, including:
 - In September 2023, Rio Grande entered into a credit agreement with a group of lenders for \$356 million of senior secured loans to finance a portion of Phase 1. The senior secured loans were disbursed in one advance of \$356 million on September 15, 2023, which resulted in a reduction in the commitments outstanding under Rio Grande's existing bank credit facilities for Phase 1. These senior secured loans will mature in July 2033, accrue interest at a fixed rate of 6.72%, and rank *pari passu* to Rio Grande's existing senior secured financings.
 - In December 2023, Rio Grande entered into a credit agreement with a group of lenders for \$251 million of senior secured loans to finance a portion of Phase 1. The senior secured loans were disbursed in one advance of \$251 million on December 28, 2023, which resulted in a reduction in the commitments outstanding under Rio Grande's existing bank credit facilities for Phase 1. These senior secured loans will be amortized over a period of approximately 18 years beginning in mid-2029, with a final maturity

in September 2047. These senior secured loans bear interest at a fixed rate of 7.11% and rank *pari passu* to Rio Grande's existing senior secured financings.

- In February 2024, Rio Grande issued and sold \$190 million of senior secured notes to finance a portion of Phase 1. The senior secured notes were issued on February 9, 2024 and resulted in a reduction in the commitments outstanding under Rio Grande's existing bank credit facilities for Phase 1. These senior secured notes will be amortized over a period of approximately 18 years beginning in mid-2029, with a final maturity in June 2047. The senior secured notes bear interest at a fixed rate of 6.85% and rank *pari passu* to Rio Grande's existing senior secured financings.
- As of December 2023, Rio Grande's outstanding fixed-rate debt and executed interest rate swaps have reduced its exposure to movements in interest rates for approximately 84% of the debt currently projected to be incurred in support of Phase 1 construction.
- In January 2024, our wholly-owned subsidiary Next Decade LNG, LLC entered into a credit agreement that provides for a \$50 million senior secured revolving credit facility with additional capacity of \$12.5 million to cover interest. Borrowings under the revolving credit facility may be used for general corporate purposes, including development costs related to Train 4 at the Rio Grande LNG Facility. Borrowings bear interest at SOFR or the base rate plus an applicable margin as defined in the credit agreement. The revolving credit facility and interest term loan mature at the earlier of two years from the closing date or 10 business days after a positive FID on Train 4.
- Rio Grande has syndicated a portion of its bank credit facility commitments, resulting in a supporting lender group of approximately 40 international banks.

Rio Grande LNG Facility Activity

We are constructing the Rio Grande LNG Facility on the north shore of the Brownsville Ship Channel in south Texas through our partially owned subsidiary Rio Grande. The site is located on 984 acres of land which has been leased long-term and includes 15,000 feet of frontage on the Brownsville Ship Channel.

The Rio Grande LNG Facility has received all necessary approvals and authorizations required for construction, including those from the FERC.

In July 2023, construction commenced on Phase 1 of the Rio Grande LNG Facility following a positive FID and the closing of project financing by Rio Grande, which owns Phase 1 of the Rio Grande LNG Facility. Phase 1 includes three liquefaction trains with a total expected nameplate capacity of approximately 17.6 MTPA of LNG production, two 180,000 cubic meter full containment LNG storage tanks, two jetty berthing structures designed to load LNG carriers up to 216,000 cubic meters in capacity, and associated site infrastructure and common facilities including feed gas pretreatment facilities, electric and water utilities, two totally enclosed ground flares for the LNG tanks and marine facilities, two ground flares for the liquefaction trains, roads, levees surrounding the entire site, and warehouses, administrative, operations control room and maintenance buildings.

As of January 2024, progress on Trains 1 through 3 is in line with the schedule under the EPC Contracts. Recent construction activities have included the start of Train 1 foundation concrete pours, piling activity for the LNG tanks, and construction of the levee and marine offloading facility. Additionally, the civil works program has progressed via the deep soil mixing program, and meaningful progress has been made on the shoreline restoration program, with the majority of shoreline reclamation nearing completion, shoreline protection work has commenced. Bechtel has also made meaningful progress on purchase orders for Train 3.

LNG Sale and Purchase Agreements

In January 2023, Rio Grande entered into a 15-year LNG SPA with Itochu Corporation ("Itochu") for the supply of 1.0 mtpa of LNG, indexed to Henry Hub and sold on a free-on-board ("FOB") basis from the Rio Grande LNG Facility.

In June 2023, Rio Grande entered into a 20-year LNG SPA with TotalEnergies SE ("TotalEnergies") for the supply of 5.4 mtpa of LNG, indexed to Henry Hub and sold on an FOB basis from the Rio Grande LNG Facility.

These SPAs, in addition to the other Phase 1 LNG SPAs previously in place, are currently effective, and deliveries of LNG under these SPAs will commence on the respective Date of First Commercial Delivery ("DFCD"), which is primarily tied to the substantial completion of guaranteed substantial completion dates of specific trains as defined in each SPA.

Engineering, Procurement and Construction ("EPC") Agreements

On July 12, 2023, Rio Grande issued final notice to proceed to Bechtel Energy Inc. under the EPC agreements for Phase 1. Total expected capital costs for Phase 1 are estimated to be approximately \$18.0 billion, including estimated owner's costs, contingencies, and financing costs, and including amounts spent prior to FID under limited notices to proceed.

NEXT Carbon Solutions

NEXT Carbon Solutions offers proposed end-to-end CCS solutions for industrial facilities. Leveraging our team's engineering and project management experience, we have developed proprietary processes that are expected to lower the capital and operating costs of deploying CCS on industrial facilities. We expect to partner with customers to invest in the deployment of CCS to reduce and permanently store CO₂ emissions. We believe that integrating CCS with an industrial facility's operations has the potential to increase the value of the industrial facility. Through proposed commercial agreements and investments, NEXT Carbon Solutions will seek to share in the value created from this integration.

Private Placements of Company Common Stock

In February 2023, we sold 5,835,277 shares of Company common stock for gross proceeds of \$35 million to HGC NEXT INV LLC and Nineteenth Investment Company.

On June 13, 2023, we entered into a common stock purchase agreement for three private placements (the "TTE Private Placement") with Global LNG North America Corp., an affiliate of TotalEnergies SE (the "TTE Purchaser"), pursuant to which we agreed to sell (i) 8,026,165 shares (the "Tranche 1 Shares") of Company common stock at a purchase price of \$4.9837 per share, for an aggregate purchase price of \$40.0 million, (ii) promptly after conversion of the Convertible Preferred Stock, 22,072,103 shares (the "Tranche 2 Shares") of Company common stock, at a purchase price of \$4.9837 per share, for an aggregate purchase price of \$110.0 million, and (iii) promptly after, and conditioned upon, receipt of approval of the Company's stockholders, a number of shares of Company common stock such that, following the conversion of the Convertible Preferred Stock, the TTE Purchaser will own, when including the Tranche 1 Shares and Tranche 2 Shares, an aggregate of 17.5% of the Company common stock then-outstanding (the "Tranche 3 Shares"). On June 14, 2023, the Company closed the sale of the Tranche 1 Shares, and on July 26, we closed the sale of the Tranche 2 Shares. On September 8, 2023, we closed the sale of 14,802,055 shares of common stock (Tranche 3 Shares) for a purchase price of \$69.4 million.

FID Equity Transactions

On July 12, 2023, in conjunction with the positive FID to construct Phase 1 of the Rio Grande LNG Facility, Rio Grande LNG Intermediate Super Holdings, LLC, an indirect subsidiary of the Company (the "NextDecade Member") entered into an amended and restated limited liability company agreement (the "JV Agreement") of Rio Grande LNG Intermediate Holdings, LLC ("Intermediate Holdings"), and the other members party thereto. The members of Intermediate Holdings, including the NextDecade Member and subsidiaries of Global Infrastructure Partners (GIP), GIC, Mubadala Investment Company (collectively with GIP and GIC, the "Financial Investors"), and TotalEnergies, committed to fund \$6.2 billion in aggregate to Intermediate Holdings. The NextDecade Member committed to fund cash contributions of approximately \$283 million to Intermediate Holdings, including approximately \$125 million in contributions paid before FID. The NextDecade Member completed its remaining equity commitment in September 2023 utilizing proceeds from the sale of common stock to the TTE Purchaser as described above.

FID Debt Transactions

On July 12, 2023, Rio Grande entered into a Credit Agreement (the "CD Credit Agreement") that provides for the following facilities:

- A construction/term loan in an amount up to \$10.3 billion available to partially finance the design, engineering, development, procurement, construction, installation, testing, completion, ownership, operation and maintenance of Phase 1, to pay certain fees and expenses associated with the CD Credit Agreement and the loans made thereunder; and
- A revolving loan and letter of credit facility in an amount up to \$500 million available to Rio Grande to finance certain working capital requirements of Rio Grande.

On July 12, 2023, Rio Grande entered into the TCF Credit Agreement (the "TCF Credit Agreement") that provides for a construction/term loan facility in an aggregate amount up to \$800 million available to Rio Grande to partially finance the design, engineering, development, procurement, construction, installation, testing, completion,

ownership, operation and maintenance of Phase 1 of the Rio Grande LNG Facility and to pay certain fees and expenses associated with the TCF Credit Agreement and the loans made thereunder. TotalEnergies Holdings SAS ("Total Holdings") agreed to provide contingent support to the lenders under the TCF Credit Agreement pursuant to, and subject to the terms and conditions of, a support agreement entered into on July 12, 2023, pursuant to which Total Holdings agreed that it will pay past due amounts owing from Rio Grande under the TCF Credit Agreement upon demand.

On July 12, 2023, Rio Grande entered into a Note Purchase Agreement through which it sold \$700 million of 6.67% Senior Secured Notes due 2033 (the "Notes"). The Notes were issued pursuant to an indenture between Rio Grande and Wilmington Trust, National Association as trustee and accrue interest that is payable semi-annually in arrears on March 30 and September 30 each year, beginning on September 30, 2023.

Conversion of Convertible Preferred Stock, Issuance of Common Stock

In connection with FID of Phase 1, the Company's convertible preferred stock converted into approximately 59.5 million shares of common stock on July 26, 2023. Refer to Note 10 — *Preferred Stock and Common Stock Warrants* for further information.

Rio Grande Refinancings

On September 15, 2023, Rio Grande entered into a credit agreement with a group of lenders for \$356 million of senior secured loans to finance a portion of Phase 1. The senior secured loans were disbursed in one advance for \$356 million on September 15, 2023, which resulted in a reduction in the commitments outstanding under Rio Grande's existing bank credit facilities for Phase 1. These senior secured loans will mature in July 2033, accrue interest at a fixed rate of 6.72%, and rank *pari passu* to Rio Grande's existing senior secured financings.

In December 2023, Rio Grande entered into a credit agreement with a group of lenders for \$251 million of senior secured loans to finance a portion of Phase 1. The senior secured loans were disbursed in one advance of \$251 million on December 28, 2023, which resulted in a reduction in the commitments outstanding under Rio Grande's existing bank credit facilities for Phase 1. These senior secured loans will be amortized over a period of approximately 18 years beginning in mid-2029, with a final maturity in September 2047. These senior secured loans bear interest at a fixed rate of 7.11% and rank *pari passu* to Rio Grande's existing senior secured financings.

In February 2024, Rio Grande entered into a note purchase agreement through which it sold \$190 million of senior secured notes to finance a portion of Phase 1. The senior secured notes were issued on February 9, 2024, and resulted in a reduction in the commitments outstanding under Rio Grande's existing bank credit facilities for Phase 1. These senior secured notes will be amortized over a period of approximately 18 years beginning in mid-2029, with a final maturity in June 2047. The senior secured notes bear interest at a fixed rate of 6.85% and rank *pari passu* to Rio Grande's existing senior secured financings.

Liquidity and Capital Resources

Following FID of Phase 1 and the project financing obtained by Rio Grande, NextDecade and Rio Grande operate with independent capital structures. Although our sources and uses are presented from a consolidated standpoint, certain restrictions under debt and equity agreements limit the ability of NextDecade and Rio Grande to use and distribute cash. Rio Grande is required to deposit all cash received under its debt agreements into restricted accounts. The usage or withdrawal of such cash is restricted to the payment of obligations related to Phase 1 and other restricted payments, and such cash and capital resources are not available to service the obligations of NextDecade.

Phase 1 FID Rio Grande Financing

In connection with the FID of Phase 1 of the Rio Grande LNG Facility, Rio Grande obtained approximately \$6.2 billion in equity capital commitments, inclusive of commitments from the NextDecade Member, entered into senior secured non-recourse bank credit facilities of \$11.6 billion, consisting of \$11.1 billion in construction term loans and a \$500 million working capital facility, and closed a \$700 million senior secured non-recourse private notes offering. Rio Grande will utilize these capital resources to fund the approximately \$18.0 billion total cost of Phase 1, including EPC cost, which was approximately \$12.0 billion at FID, and to fund owner's costs and contingencies, dredging for the Brazos Island Harbor Channel Improvement Project, conservation of more than 4,000 acres of wetland and wildlife habitat area and installation of utilities, and interest during construction and other financing costs.

Near Term Liquidity and Capital Resources of NextDecade Corporation

In connection with the FID of Phase 1, the Company, through NextDecade Member, its wholly owned subsidiary, committed to invest approximately \$283 million, including \$125 million of pre-FID capital investments, into construction of Phase 1 of the Rio Grande LNG Facility. As of September 30, 2023, the Company had funded its full equity commitment, utilizing proceeds of the sale of the third tranche of common stock to the TTE Purchaser.

Prior to the FID on Phase 1 of the Rio Grande LNG Facility, our primary cash needs historically were funding development activities in support of the Rio Grande LNG Facility and our CCS projects, which included payments of initial direct costs of the Rio Grande site lease and expenses in support of engineering and design activities, regulatory approvals and compliance, commercial and marketing activities and corporate overhead. We spent approximately \$97.7 million on such development activities year-to-date through FID on July 12, 2023, which we funded through our cash on hand and proceeds from the issuances of equity and equity-based securities. Following the FID of Phase 1 of the Rio Grande LNG Facility, costs associated with the Phase 1 EPC contracts, Rio Grande site lease, and other Phase 1 related costs are being funded by debt and equity proceeds received by Rio Grande.

Because our businesses and assets are under construction or in development, we have not historically generated significant cash flow from operations, nor do we expect to do so until liquefaction trains at the Rio Grande LNG Facility begin operating or until we install CCS systems at third-party industrial facilities. We intend to fund development activities for the foreseeable future with cash and cash equivalents on hand, available capacity under our revolving credit facility, and through the sale of additional equity, equity-based or debt securities in us or in our subsidiaries. There can be no assurance that we will succeed in selling equity or equity-based securities or, if successful, that the capital we raise will not be expensive or dilutive to stockholders.

Our consolidated financial statements as of and for the year ended December 31, 2023 have been prepared on the basis that we will continue as a going concern, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. Based on our balance of cash and cash equivalents of \$38.2 million at December 31, 2023, there is substantial doubt about our ability to continue as a going concern within one year after the date that our consolidated financial statements were issued. Our ability to continue as a going concern will depend on managing certain operating and overhead costs and our ability to raise capital through equity, equity-based or debt financings. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty, which could have a material adverse effect on our financial condition.

Our capital raising activities since January 1, 2023 have included the following:

- In February 2023, we sold 5,835,277 shares of Company common stock for \$35.0 million.
- In June, July and September 2023, we sold 44,900,323 shares of Company common stock in the three tranches of the TTE Private Placement for approximately \$219.4 million.
- In January 2024, NextDecade LLC executed a credit agreement that provides for a \$50 million revolving credit facility that may be used for general corporate purposes and working capital requirements of NextDecade LLC and its subsidiaries, including development costs related to the fourth liquefaction train and related common facilities at the Rio Grande LNG Facility.

Long Term Liquidity and Capital Resources of NextDecade Corporation

We will not receive significant cash flows from Phase 1 of the Rio Grande LNG Facility until it is operational, and the commercial operation date for the first train of Phase 1 is expected to occur in late 2027 based on the schedule under the EPC contracts. Any future phases of development at the Rio Grande LNG Facility and CCS projects will similarly take an extended period of time to develop, construct and become operational and will require significant capital deployment.

We currently expect that the long-term capital requirements for future phases of development at the Rio Grande LNG Facility and any CCS projects will be financed predominantly through the proceeds from future debt, equity-based, and equity offerings by us or our subsidiaries. As a result, our business success will depend, to a significant extent, upon our ability to obtain financing required to fund future phases of development and construction at the Rio Grande LNG Facility and any CCS projects, to bring them into operation on a commercially viable basis and to finance any required increases in staffing, operating and expansion costs during that process. There can be no assurance that we will succeed in securing additional debt and/or equity financing in the future to fund future phases of development and construction at the Rio Grande LNG Facility or complete any CCS projects or, if successful, that the capital we raise will not be expensive or dilutive to stockholders. Additionally, if these types of financing are not available, we will be required to seek alternative sources of financing, which may not be available on terms acceptable to us, if at all.

Sources and Uses of Cash

The following table summarizes the sources and uses of our cash for the periods presented (in thousands):

	Year Ended December 31,	
	2023	2022
Operating cash flows	\$ (73,620)	\$ (40,076)
Investing cash flows	(1,752,800)	(40,888)
Financing cash flows	2,058,109	118,201
Net increase in cash, cash equivalents and restricted cash	231,689	37,237
Cash and cash equivalents – beginning of period	62,789	25,552
Cash, cash equivalents and restricted cash – end of period	\$ 294,478	\$ 62,789

Operating Cash Flows

Operating cash outflows during the years ended December 31, 2023 and 2022 were \$73.6 million and \$40.1 million, respectively. The increase in operating cash outflows in 2023 compared to 2022 was primarily due to an increase in employee costs and professional fees paid to consultants as we prepared for and achieved a positive FID in Phase 1 of the Rio Grande LNG Facility in July 2023.

Investing Cash Flows

Investing cash outflows during the years ended December 31, 2023 and 2022 were \$1,752.8 million and \$40.9 million, respectively. Investing cash outflows primarily consist of cash used in the construction and development of Phase 1 of the Rio Grande LNG Facility. The increase in investing cash outflows in 2023 compared to 2022 was primarily due to a positive FID in Phase 1 of the Rio Grande LNG Facility, the mobilization of the Bechtel workforce that began in July 2023 and subsequent progress payments made to Bechtel.

Financing Cash Flows

Financing cash inflows during the years ended December 31, 2023 and 2022 were \$2,058.1 million and \$118.2 million, respectively. Financing cash inflows during 2023 are primarily comprised of proceeds from the issuance of debt of \$2,083.0 million, proceeds from the sale of equity in subsidiaries of \$457.7 million and proceeds from the sale of Company common stock of \$254.4 million. The cash inflows for 2023 were partially offset by debt and equity issuances costs of \$494.3 million, repayment of debt of \$233.0 million and shares repurchased related to share-based compensation of \$9.6 million.

Contractual Obligations

We are committed to make cash payments in the future pursuant to certain of our contracts. The following table summarizes certain contractual obligations (in thousands) in place as of December 31, 2023:

	Total	2024	2025-2026	2027-2028	Thereafter
Operating lease obligations	\$ 243,581	\$ 8,029	\$ 17,137	\$ 19,174	\$ 199,241
Other	2,800	2,800	—	—	—
Total	\$ 246,381	\$ 10,829	\$ 17,137	\$ 19,174	\$ 199,241

Operating lease obligations relate to the Rio Grande site lease and our office spaces in Houston, Texas and Singapore. A discussion of these obligations can be found at Note 6 — Leases of our Notes to Consolidated Financial Statements.

Results of Operations

The following table summarizes costs, expenses and other income for the years ended December 31, 2023 and 2022 (in thousands):

	Year Ended December 31,		Change
	2023	2022	
Revenues	\$ —	\$ —	\$ —
General and administrative expense	111,468	49,093	62,375
Development expense, net	4,891	4,101	790
Lease expense	6,141	1,119	5,022
Depreciation expense	168	162	6
Operating loss	(122,668)	(54,475)	(68,193)
Loss on common stock warrant liabilities	(1,879)	(5,747)	3,868
Derivative loss, net	(44,803)	—	(44,803)
Interest expense, net of capitalized interest	(50,285)	—	(50,285)
Loss on debt extinguishment	(9,531)	—	(9,531)
Other income, net	7,526	151	7,375
Net loss attributable to NextDecade Corporation	(221,640)	(60,071)	(161,569)
Less: net loss attributable to non-controlling interest	(59,379)	—	(59,379)
Less: preferred stock dividends	20,484	24,282	(3,798)
Net loss attributable to common stockholders	\$ (182,745)	\$ (84,353)	\$ (98,392)

Our consolidated net loss was \$182.7 million, or \$(0.94) per common share (basic and diluted), for the year ended December 31, 2023 compared to a net loss of \$84.4 million, or \$(0.65) per common share (basic and diluted), for the year ended December 31, 2022. The \$98.4 million increase in net loss was primarily a result of increases in general and administrative expense, derivative loss, net, interest expense, net of capitalized interest, and loss on debt extinguishment, discussed separately below.

General and administrative expenses during the year ended December 31, 2023 increased \$62.4 million compared to the year ended December 31, 2022, primarily due to an increase in share-based compensation expense of \$19.1 million and increases in employee costs and professional fees. The increase in share-based compensation expense for the year ended December 31, 2023 was primarily due to the recognition of compensation cost on restricted stock awards and units that vested at FID of Phase 1 of the Rio Grande LNG Facility. Employee costs and professional fees increased during 2023 as we prepared for and achieved a positive FID on Phase 1 of the Rio Grande LNG Facility.

Derivative loss, net during the year ended December 31, 2023 of \$44.8 million is due to a decrease in forward SOFR rates from July 12, 2023 to December 31, 2023.

Interest expense, net of capitalized interest during the year ended December 31, 2023 of \$50.3 million represents total interest cost on debt of \$84.7 million, net of capitalized interest of \$34.4 million.

Net loss attributable to non-controlling interest during the year ended December 31, 2023 of \$59.4 million is due to the sale of equity in Intermediate Holdings in July 2023 and the non-controlling interests share of Intermediate Holdings net loss.

Summary of Critical Accounting Estimates

The preparation of our Condensed Consolidated Financial Statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make certain estimates and assumptions that affect the amounts reported in the Consolidated Financial Statements and the accompanying notes. Management evaluates its estimates and related assumptions regularly, including those related to the value of properties, plant, and equipment, share-based compensation, common stock warrant liabilities, and income taxes. Changes in facts and circumstances or additional information may result in revised estimates, and actual results may differ from these estimates. Management considers the following to be its most critical accounting estimates that involve significant judgment.

Impairment of Long-Lived Assets

A long-lived asset, including an intangible asset, is evaluated for potential impairment whenever events or changes in circumstances indicate that its carrying value may not be recoverable. Recoverability generally is determined by comparing the carrying value of the asset to the expected undiscounted future cash flows of the asset. If the carrying value of the asset is not recoverable, the amount of impairment loss is measured as the excess, if any, of the carrying value of the asset over its estimated fair value. We use a variety of fair value measurement techniques when market information for the same or similar assets does not exist. Projections of future operating results and cash flows may vary significantly from results. Management reviews its estimates of cash flows on an ongoing basis using historical experience and other factors, including the current economic and commodity price environment.

Derivative Instruments

All derivative instruments, other than those that satisfy specific exceptions, are recorded at fair value. We record changes in the fair value of our derivative positions based on the value for which the derivative instrument could be exchanged between willing parties. If market quotes are not available to estimate fair value, management's best estimate of fair value is based on the quoted market price of derivatives with similar characteristics or determined through industry-standard valuation approaches. Such evaluation may involve significant judgment and the results are based on expected future events or conditions, particularly for those valuations using inputs unobservable in the market.

Our derivative instruments consist of interest rate swaps. We value our interest rate swaps using observable inputs including interest rate curves, risk adjusted discount rates, credit spreads and other relevant data.

Gains and losses on derivative instruments are recognized in earnings. The ultimate fair value of our derivative instruments is uncertain, and we believe that it is reasonably possible that a change in the estimated fair value could occur in the near future as interest rates change.

Share-based Compensation

The assumptions used in calculating the fair value of share-based payment awards represent our best estimates, but these estimates involve inherent uncertainties and the application of management's judgment. As a result, if factors change and we use different assumptions, our share-based compensation expense could be materially different in the future.

For additional information regarding our share-based compensation, see Note 14 — *Share-based Compensation* of our Notes to Consolidated Financial Statements.

Valuation of Common Stock Warrant Liabilities

The fair value of Common Stock Warrant liabilities is determined using a Monte Carlo valuation model. Determining the appropriate fair value model and calculating the fair value of Common Stock Warrant requires considerable judgment. Any change in the estimates used may cause the value to be higher or lower than that reported. The estimated volatility of our Common Stock Warrants at the date of issuance, and at each subsequent reporting period, is based on our historical volatility. The risk-free interest rate is based on rates published by the government for bonds with maturity similar to the expected remaining life of the Common Stock Warrants at the valuation date. The expected life of the Common Stock Warrants is assumed to be equivalent to their remaining contractual term.

The Common Stock Warrants are not traded in an active market and the fair value is determined using valuation techniques. The estimates may be significantly different from those recorded in the consolidated financial statements because of the use of judgment and the inherent uncertainty in estimating the fair value of these instruments that are not quoted in an active market. All changes in the fair value are recorded in the consolidated statement of operations each reporting period.

For additional information regarding the valuation of Common Stock Warrant liabilities, see Note 10 — *Preferred Stock and Common Stock Warrants* of our Notes to Consolidated Financial Statements.

Income Taxes

Provisions for income taxes are based on taxes payable or refundable for the current year and deferred taxes on temporary differences between the tax basis of assets and liabilities and their reported amounts in the Consolidated Financial Statements. Deferred tax assets and liabilities are included in the Consolidated Financial Statements at currently enacted income tax rates applicable to the period in which the deferred tax assets and liabilities are expected to be realized or settled. As changes in tax laws or rates are enacted, deferred tax assets and liabilities are adjusted through the current period's provision for income taxes. We routinely assess our deferred tax assets and reduce such assets by a valuation allowance if we deem it is more likely than not that some portion or all of the deferred tax assets will not be realized. This

assessment requires significant judgment and is based upon our assessment of our ability to generate future taxable income among other factors.

For additional information regarding the valuation of deferred tax assets, see Note 15 — *Income Taxes* of our Notes to Consolidated Financial Statements.

Recent Accounting Standards

The Company does not believe that any recently issued, but not yet effective, accounting standards, if currently adopted, would have a material effect on our Consolidated Financial Statements or related disclosures.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We are a smaller reporting company as defined by Rule 12b-2 of the Securities Exchange Act of 1934, as amended, and are not required to provide the information under this item.

Item 8. Financial Statements and Supplementary Data

Index to Consolidated Financial Statements

NextDecade Corporation and Subsidiaries

	Page
<u>Report of Independent Registered Public Accounting Firm (PCAOB ID Number 248)</u>	<u>47</u>
<u>Consolidated Balance Sheets</u>	<u>49</u>
<u>Consolidated Statements of Operations</u>	<u>50</u>
<u>Consolidated Statements of Stockholders' Equity and Convertible Preferred Stock</u>	<u>51</u>
<u>Consolidated Statements of Cash Flows</u>	<u>52</u>
<u>Notes to Consolidated Financial Statements</u>	<u>53</u>

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Stockholders
NextDecade Corporation

Opinion on the financial statements

We have audited the accompanying consolidated balance sheets of NextDecade Corporation (a Delaware corporation) and subsidiaries (the "Company") as of December 31, 2023 and 2022, the related consolidated statements of operations, stockholders' equity and convertible preferred stock, and cash flows for the years then ended, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Going concern

The accompanying financial statements have been prepared assuming the Company will continue as a going concern. As discussed in Note 1 to the financial statements, the Company has incurred operating losses since its inception and management expects operating losses and negative cash flows to continue for the foreseeable future. These conditions, along with other matters as set forth in Note 1, raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical audit matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Consolidation of Rio Grande LNG Intermediate Holdings, LLC under the variable interest entity model

As described further in note 2 to the financial statements, when the Company has a variable interest in another legal entity, management evaluates whether that legal entity is within the scope of the variable interest entity ("VIE") model and, if so, whether the Company is the primary beneficiary of the VIE. Management consolidates a VIE if the Company's involvement indicates that it is the primary beneficiary. The Company is the primary beneficiary of a VIE if it has both (i) the power to direct the activities of the VIE that most significantly impact the VIE's economic performance and (ii) the obligation to absorb losses or the right to receive benefits of the VIE that could potentially be significant to the VIE. We identified the consolidation of Rio Grande LNG Intermediate Holdings, LLC under the VIE model ("consolidation under the VIE model") as a critical audit matter.

The principal considerations for our determination are (i) the significant judgment by management when determining whether the Company is the primary beneficiary of the VIE based on whether the Company has the power to direct the activities of the VIE that most significantly impact the VIE's economic performance, and the obligation to absorb losses or the right to receive benefits that could potentially be significant to the VIE and (ii) a high degree of auditor judgment, subjectivity and effort in performing procedures when evaluating audit evidence related to the purpose of the VIE, rights and obligations of the variable interest holders, mechanisms for the resolution of disputes among variable interest holders, and other executed agreements with the legal entity and its variable interest holders.

Our audit procedures related to the consolidation under the VIE model included the following, among others:

- We compared the rights of each party to underlying executed legal documents and discussed with management the purpose and design of the VIE.
- We evaluated management's analysis of significant activities of the VIE such as capital decisions, financing decisions and operating decisions, and which variable interest holder has the power to direct such activities. In our evaluation, we considered the purpose and design of the entity, the composition of the board of directors and other legal rights of the parties, including the significance of the decision-making rights of each party in assessing which party has power to direct the activities that most significantly affect the economic performance of the VIE, as well as the substance of the arrangements.
- We tested the initial determination of non-controlling interests in Rio Grande LNG Intermediate Holdings, LLC, and the allocation of subsequent profits and losses in Rio Grande LNG Intermediate Holdings, LLC for controlling and non-controlling interest holders based on what the holders of these interests may legally claim at the end of each reporting period.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2018.

Houston, Texas

March 11, 2024

NextDecade Corporation
Consolidated Balance Sheets
(in thousands, except per share data)

	December 31,	
	2023	2022
Assets		
Current assets:		
Cash and cash equivalents	\$ 38,241	\$ 62,789
Restricted cash	256,237	—
Derivative asset	17,958	—
Prepaid expenses and other current assets	2,089	1,149
Total current assets	314,525	63,938
Property, plant and equipment, net	2,437,733	218,646
Operating lease right-of-use assets	170,827	1,474
Debt issuance costs	389,695	—
Other non-current assets	11,021	28,372
Total assets	\$ 3,323,801	\$ 312,430
Liabilities, Convertible Preferred Stock and Stockholders' Equity		
Current liabilities:		
Accounts payable	\$ 243,129	\$ 1,084
Accrued and other current liabilities	299,264	23,184
Common stock warrant liabilities	6,851	—
Operating lease liabilities	3,143	1,093
Total current liabilities	552,387	25,361
Common stock warrant liabilities	1,818	6,790
Operating lease liabilities	145,962	465
Derivative liability	66,899	—
Debt, net	1,816,301	—
Other non-current liabilities	—	23,000
Total liabilities	2,583,367	55,616
Commitments and contingencies (Note 16)		
Series A-C convertible preferred stock (Note 10)	—	202,443
Stockholders' equity:		
Common stock, \$ 0.0001 par value, 480.0 million authorized: 256.5 million and 143.5 million outstanding, respectively	26	14
Treasury stock: 2.2 million and 1.0 million respectively, at cost	(14,214)	(4,587)
Preferred stock, \$ 0.0001 par value, 0.5 million authorized after designation of the convertible preferred stock: none outstanding	—	—
Additional paid-in-capital	693,883	289,084
Accumulated deficit	(391,772)	(230,140)
Total stockholders' equity	287,923	54,371
Non-controlling interest	452,511	—
Total equity	740,434	54,371
Total liabilities, convertible preferred stock and stockholders' equity	\$ 3,323,801	\$ 312,430

The accompanying notes are an integral part of these consolidated financial statements.

NextDecade Corporation
Consolidated Statements of Operations
(in thousands, except per share data)

	Year Ended December 31,	
	2023	2022
Revenues	\$ —	\$ —
Operating expenses:		
General and administrative expense	111,468	49,093
Development expense, net	4,891	4,101
Lease expense	6,141	1,119
Depreciation expense	168	162
Total operating expenses	122,668	54,475
Total operating loss	(122,668)	(54,475)
Other income (expense):		
Loss on common stock warrant liabilities	(1,879)	(5,747)
Derivative loss, net	(44,803)	—
Interest expense, net of capitalized interest	(50,285)	—
Loss on debt extinguishment	(9,531)	—
Other income, net	7,526	151
Total other expense	(98,972)	(5,596)
Net loss attributable to NextDecade Corporation	(221,640)	(60,071)
Less: net loss attributable to non-controlling interest	(59,379)	—
Less: preferred stock dividends	20,484	24,282
Net loss attributable to common stockholders	\$ (182,745)	\$ (84,353)
Net loss per common share - basic & diluted	\$ (0.94)	\$ (0.65)
Weighted average shares outstanding - basic & diluted	194,595	130,136

The accompanying notes are an integral part of these consolidated financial statements.

NextDecade Corporation
Consolidated Statement of Stockholders' Equity and Convertible Preferred Stock
(in thousands)

	Year Ended December 31,	
	2023	2022
Total stockholders' equity, beginning balances	\$ 54,371	\$ 19,892
Common stock:		
Beginning balances	14	12
Issuance of common stock	6	2
Preferred stock conversion	6	—
Ending balances	26	14
Treasury Stock:		
Beginning balance	(4,587)	(1,315)
Shares repurchased related to share-based compensation	(9,627)	(3,272)
Ending balance	(14,214)	(4,587)
Additional paid-in-capital:		
Beginning balances	289,084	191,264
Share-based compensation	26,600	7,472
Issuance of common stock, net	254,394	111,066
Sale of equity in subsidiary	(78,579)	—
Exercise of common stock warrants	—	3,564
Preferred stock dividends	(20,484)	(24,282)
Preferred stock conversion	222,868	—
Ending balances	693,883	289,084
Accumulated deficit:		
Beginning balances	(230,140)	(170,069)
Subsidiary deconsolidation due to sale	629	—
Net loss	(162,261)	(60,071)
Ending balances	(391,772)	(230,140)
Total stockholders' equity	287,923	54,371
Non-controlling interest:		
Beginning balance	—	—
Sale of equity in subsidiary	511,890	—
Net loss	(59,379)	—
Ending balance	452,511	—
Total equity, ending balances	\$ 740,434	\$ 54,371
Preferred Stock, Series A-C:		
Beginning balance	\$ 202,443	\$ 168,400
Preferred stock dividends	20,431	24,207
Preferred stock conversion	(222,874)	—
Issuance of preferred stock	—	9,836
Ending balance	\$ —	\$ 202,443

The accompanying notes are an integral part of these consolidated financial statements.

NextDecade Corporation
Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,	
	2023	2022
Operating activities:		
Net loss attributable to NextDecade Corporation	\$ (221,640)	\$ (60,071)
Adjustment to reconcile net loss to net cash used in operating activities		
Depreciation	168	162
Share-based compensation expense	26,553	7,472
Loss on common stock warrant liabilities	1,879	5,747
Derivative loss, net	44,803	—
Net cash provided by settlement of derivative instruments	4,138	—
Amortization of right-of-use assets	2,980	756
Gain on sale of assets	(5,712)	—
Amortization of debt issuance costs	41,390	—
Loss on debt extinguishment	9,531	—
Interest expense	26,432	—
Amortization of other non-current assets	—	354
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	(940)	(314)
Accounts payable	4,057	684
Operating lease liabilities	(179)	(678)
Accrued expenses and other liabilities	(7,080)	5,812
Net cash used in operating activities	(73,620)	(40,076)
Investing activities:		
Acquisition of property, plant and equipment	(1,737,636)	(33,753)
Acquisition of other non-current assets	(15,164)	(7,135)
Net cash used in investing activities	(1,752,800)	(40,888)
Financing activities:		
Proceeds from debt issuance	2,083,000	—
Proceeds from sale of equity in subsidiaries	457,659	—
Proceeds from sale of preferred stock	—	10,500
Proceeds from sale of common stock	254,400	115,000
Repayment of debt	(233,000)	—
Debt and equity issuance costs	(494,270)	(3,952)
Preferred stock dividends	(53)	(75)
Shares repurchased related to share-based compensation	(9,627)	(3,272)
Net cash provided by financing activities	2,058,109	118,201
Net increase in cash, cash equivalents and restricted cash	231,689	37,237
Cash, cash equivalents and restricted cash – beginning of period	62,789	25,552
Cash, cash equivalents and restricted cash – end of period	\$ 294,478	\$ 62,789
Balance per Consolidated Balance Sheet:		
	December 31, 2023	
Cash and cash equivalents	\$	38,241
Restricted cash		256,237
Total cash, cash equivalents and restricted cash	\$	294,478

The accompanying notes are an integral part of these consolidated financial statements.

NextDecade Corporation
Notes to Consolidated Financial Statements

Note 1 — Background and Basis of Presentation

NextDecade Corporation ("we" or the "Company") is primarily engaged in construction and development activities related to the liquefaction of natural gas and sale of liquefied natural gas ("LNG") and the capture and storage of CO₂ emissions. We are constructing and developing a natural gas liquefaction and export facility located in the Rio Grande Valley in Brownsville, Texas (the "Rio Grande LNG Facility"), which currently has three liquefaction trains and related infrastructure under construction ("Phase 1"). Construction commenced on Phase 1 of the Rio Grande LNG Facility in July 2023, following a positive final investment decision ("FID") and the closing of project financing by our subsidiary, Rio Grande LNG, LLC ("Rio Grande"). The Rio Grande LNG Facility has received Federal Energy Regulatory Commission approval and Department of Energy FTA and non-FTA authorizations for the construction of up to five liquefaction trains and LNG exports totaling 27 million tonnes per annum ("MTPA"). We are also developing liquefaction trains 4 and 5 at the Rio Grande LNG Facility, a planned carbon capture and storage ("CCS") project at the Rio Grande LNG Facility, and other potential CCS projects that would be located at third-party industrial source facilities.

Basis of Presentation

Our Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). All intercompany accounts and transactions have been eliminated in consolidation.

Certain reclassifications have been made to conform prior period information to the current presentation. The reclassifications did not have a material effect on the Company's financial position, results of operations or cash flows.

The Company has incurred operating losses since its inception and management expects operating losses and negative cash flows to continue until the commencement of operations at the Rio Grande LNG Facility and, as a result, the Company will require additional capital to fund its operations and execute its business plan. As of December 31, 2023, the Company had \$ 38.2 million in cash and cash equivalents, which may not be sufficient to fund the Company's planned operations and development activities for future phases of the Rio Grande LNG Facility and CCS projects through one year after the date the consolidated financial statements are issued. Accordingly, there is substantial doubt about the Company's ability to continue as a going concern. The analysis used to determine the Company's ability to continue as a going concern does not include cash sources outside of the Company's direct control that management expects to be available within the next twelve months.

The Company plans to alleviate the going concern issue by obtaining sufficient funding through additional equity, equity-based or debt instruments, or any other means, and by managing certain operating and overhead costs. The Company's ability to raise additional capital in the equity and debt markets, should the Company choose to do so, is dependent on a number of factors, including, but not limited to, the market demand for the Company's equity or debt securities, which itself is subject to a number of business risks and uncertainties, as well as the uncertainty that the Company would be able to raise such additional capital at a price or on terms that are satisfactory to the Company. In the event the Company is unable to obtain sufficient additional funding, there can be no assurance that it will be able to continue as a going concern.

These consolidated financial statements have been prepared on a going concern basis and do not include any adjustments to the amounts and classification of assets and liabilities that may be necessary in the event the Company can no longer continue as a going concern.

Note 2 — Summary of Significant Accounting Policies

Variable Interest Entities ("VIEs")

The Company makes a determination at the inception of each arrangement whether an entity in which the Company has made an investment, sold equity in a subsidiary or in which it has other variable interests is considered a VIE. Generally, an entity is a VIE if either (1) the entity does not have sufficient equity at risk to finance its activities without additional subordinated financial support from other parties, (2) the entity's investors lack any characteristics of a controlling financial interest or (3) the entity was established with non-substantive voting rights.

The Company consolidates VIEs when it is deemed to be the primary beneficiary. The primary beneficiary of a VIE is generally the party that has the power to make decisions that most significantly affect the economic performance of the VIE and has the obligation to absorb losses or the right to receive benefits that in either case, could be potentially significant to the VIE. If the Company is not deemed to be the primary beneficiary of a VIE, the Company accounts for the investment or other variable interests in a VIE in accordance with other applicable GAAP.

NextDecade Corporation
Notes to Consolidated Financial Statements

Non-controlling interests

When the Company consolidates an entity, 100% of the assets, liabilities, revenues and expenses of the entity are included in the Company's Consolidated Financial Statements. For those consolidated entities in which the Company owns less than 100%, the Company records a non-controlling interest as a component of equity in the Consolidated Balance Sheets, which represent the third party ownership in the net assets of the respective consolidated subsidiary. Additionally, the portion of the net income or loss attributable to the non-controlling interest is reported as net loss attributable to non-controlling interest on the Consolidated Statements of Operations. Changes in the Company's ownership interests in an entity that do not result in deconsolidation are generally recognized within equity.

Use of Estimates

The preparation of Consolidated Financial Statements in conformity with GAAP requires management to make certain estimates and assumptions that affect the amounts reported in the Consolidated Financial Statements and the accompanying notes. Management evaluates its estimates and related assumptions regularly, including those related to the value of property, plant and equipment, income taxes including valuation allowances for net deferred tax assets, share-based compensation and fair value measurements. Changes in facts and circumstances or additional information may result in revised estimates, and actual results may differ from these estimates.

Concentrations of Credit Risk

Financial instruments that potentially subject us to a concentration of credit risk consist principally of cash and cash equivalents. We maintain cash and cash equivalent balances with a single financial institution, which may at times be in excess of federally insured levels. We have not incurred losses related to these cash and cash equivalent balances to date.

Cash Equivalents

We consider all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents.

Restricted Cash

Restricted cash consists of funds that are contractually or legally restricted to usage or withdrawal and have been presented separately from cash and cash equivalents on our Consolidated Balance Sheets.

Property, Plant and Equipment

Generally, we begin to capitalize the costs of our development projects once construction of the individual project is probable. This assessment includes the following criteria:

- funding for design and permitting has been identified and is expected in the near-term;
- key vendors for development activities have been identified, and we expect to engage them at commercially reasonable terms;
- we have committed to commencing development activities;
- regulatory approval is probable;
- construction financing is expected to be available at the time of a FID;
- prospective customers have been identified and the FID is probable; and
- receipt of customary local tax incentives, as needed for project viability, is probable.

Prior to meeting the criteria above, costs associated with a project are expensed as incurred. Expenditures for normal repairs and maintenance are expensed as incurred.

When assets are retired or disposed, the cost and accumulated depreciation are eliminated from the accounts and any gain or loss is reflected in our Consolidated Statements of Operations.

Property, plant and equipment is carried at historical cost and depreciated using the straight-line method over their estimated useful lives.

Leasehold improvements are depreciated over the lesser of the economic life of the leasehold improvement or the term of the lease, without regard to extension or renewal rights.

NextDecade Corporation
Notes to Consolidated Financial Statements

Management tests property, plant and equipment for impairment whenever events or changes in circumstances have indicated that the carrying amount of property, plant and equipment might not be recoverable. Assets are grouped at the lowest level for which there are identifiable cash flows that are largely independent of the cash flows of other groups of assets for purposes of assessing recoverability. Recoverability generally is determined by comparing the carrying value of the asset to the expected undiscounted future cash flows of the asset. If the carrying value of the asset is not recoverable, the amount of impairment loss is measured as the excess, if any, of the carrying value of the asset over its estimated fair value.

Derivative Instruments

The Company uses derivative instruments to hedge its exposure to cash flow variability from interest rate risk. Derivative instruments are recorded at fair value and included in the Consolidated Balance Sheets as current or non-current assets or liabilities depending on the derivative position and the expected timing of settlement.

Leases

The Company determines if a contractual arrangement represents or contains a lease at inception. Operating leases with lease terms greater than twelve months are included in Operating lease right-of-use assets and Operating lease liabilities in the Consolidated Balance Sheets.

Operating lease right-of-use assets and lease liabilities are recognized at the commencement date based on the present value of the future lease payments over the lease term. The Company utilizes its incremental borrowing rate in determining the present value of the future lease payments. The incremental borrowing rate is derived from information available at the lease commencement date and represents the rate of interest that the Company would have to pay to borrow on a collateralized basis over a similar term and amount equal to the lease payments in a similar economic environment. The right-of-use assets and lease liabilities may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. The Company has lease arrangements that include both lease and non-lease components. The Company accounts for non-lease components separately from the lease component.

Warrants

The Company determines the accounting classification of warrants that are issued, as either liability or equity, by first assessing whether the warrants meet liability classification in accordance with Accounting Standards Codification ("ASC") 480 *Distinguishing Liabilities from Equity* ("ASC 480"), and then in accordance with ASC 815-40, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock* ("ASC 815-40"). Under ASC 480, warrants are considered liability classified if the warrants are mandatorily redeemable, obligate the issuer to settle the warrants or the underlying shares by paying cash or other assets, or must or may require settlement by issuing a variable number of shares.

If warrants do not meet liability classification under ASC 480, the Company assesses the requirements under ASC 815-40, which states that contracts that require or may require the issuer to settle the contract for cash or a variable number of shares are liabilities recorded at fair value, irrespective of the likelihood of the transaction occurring that triggers the net cash settlement feature. If the warrants do not require liability classification under ASC 815-40, in order to conclude equity classification, the Company assesses whether the warrants are indexed to our common stock and whether the warrants are classified as equity under ASC 815-40 or other applicable GAAP. After all relevant assessments are made, the Company concludes whether the warrants are classified as liability or equity. Liability classified warrants are required to be accounted for at fair value both on the date of issuance and on subsequent accounting period ending dates, with all changes in fair value after the issuance date recorded in the statements of operations as a gain or loss. Equity classified warrants are accounted for at fair value on the issuance date with no changes in fair value recognized after the issuance date.

Debt

Our debt consists of long-term secured debt securities and credit agreements with banks and other lenders. Debt issuances are placed directly by us or through securities dealers, underwriters, or lead arrangers and are held by institutional investors, banks and other lenders.

Debt is recorded on our Consolidated Balance Sheets at outstanding principal value, net of unamortized debt issuance costs related to term notes and loans. Debt issuance costs consist primarily of arrangement fees, professional fees, legal fees and in certain cases, commitment fees. If debt issuance costs are incurred in connection with a line of credit arrangement or on undrawn funds, the debt issuance costs are presented as an asset on our Consolidated Balance Sheets. Discounts, premiums and debt issuance costs directly related to the issuance of debt are amortized over the life of the debt and are recorded in interest expense, net of capitalized interest using the effective interest method.

NextDecade Corporation
Notes to Consolidated Financial Statements

We classify debt as current or non-current on our Consolidated Balance Sheets based on contractual maturity; however, long-term debt extinguished after the balance sheet date but before the financial statements are issued would be classified based on facts and circumstances existing as of the balance sheet date.

Fair Value of Financial Instruments

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. Hierarchy Levels 1, 2 and 3 are terms for the priority of inputs to valuation techniques used to measure fair value. Hierarchy Level 1 inputs are quoted prices in active markets for identical assets or liabilities. Hierarchy Level 2 inputs are inputs other than quoted prices included within Level 1 that are directly or indirectly observable for the asset or liability. Hierarchy Level 3 inputs are inputs that are not observable in the market. In determining fair value, we use observable market data when available, or models that incorporate observable market data. In addition to market information, we incorporate transaction-specific details that, in management's judgment, market participants would take into account in measuring fair value. We maximize the use of observable inputs and minimize our use of unobservable inputs in arriving at fair value estimates. Recurring fair-value measurements are performed for derivatives and common stock warrant liabilities as disclosed in Note 5 — *Derivatives* and Note 10 — *Preferred Stock and Common Stock Warrants*, respectively. The carrying amount of cash and cash equivalents and accounts payable reported on the Consolidated Balance Sheets approximates fair value due to their short-term maturities.

Treasury Stock

Treasury stock is recorded at cost. Issuance of treasury stock is accounted for on a weighted average cost basis. Differences between the cost of treasury stock and the re-issuance proceeds are charged to additional paid-in capital.

Net Earnings (Loss) Per Share

Net earnings (loss) per share ("EPS") is computed in accordance with GAAP. Basic EPS excludes dilution and is computed by dividing net income (loss) by the weighted average number of common shares outstanding during the period. Diluted EPS reflects potential dilution and is computed by dividing net income (loss) by the weighted average number of common shares outstanding during the period increased by the number of additional common shares that would have been outstanding if the potential common shares had been issued and were dilutive. The dilutive effect of unvested stock and warrants is calculated using the treasury-stock method and the dilutive effect of convertible securities is calculated using the if-converted method. Basic and diluted EPS for all periods presented are the same since the effect of our potentially dilutive securities are anti-dilutive to our net loss per share, as disclosed in Note 13 — *Net Loss Per Share*.

Share-based Compensation

We recognize share-based compensation at fair value on the date of grant. The fair value is recognized as expense (net of any capitalization) over the requisite service period. For equity-classified share-based compensation awards, compensation cost is recognized based on the grant-date fair value using the quoted market price of our common stock and not subsequently remeasured. The fair value is recognized as expense, net of any capitalization, using the straight-line basis for awards that vest based on service conditions and using the graded-vesting attribution method for awards that vest based on performance conditions. We estimate the service periods for performance awards utilizing a probability assessment based on when we expect to achieve the performance conditions. For liability classified share-based compensation awards, compensation cost is initially recognized on the grant date using estimated payout levels. Compensation cost is subsequently adjusted quarterly to reflect the updated estimated payout levels based on the changes in our stock price. We account for forfeitures as they occur.

Income Taxes

Provisions for income taxes are based on taxes payable or refundable for the current year and deferred taxes on temporary differences between the tax basis of assets and liabilities and their reported amounts in the Consolidated Financial Statements. Deferred tax assets and liabilities are included in the Consolidated Financial Statements at currently enacted income tax rates applicable to the period in which the deferred tax assets and liabilities are expected to be realized or settled. As changes in tax laws or rates are enacted, deferred tax assets and liabilities are adjusted through the current period's provision for income taxes. A valuation allowance is recorded to reduce the carrying value of our net deferred tax assets when it is more likely than not that a portion or all of the deferred tax assets will expire before realization of the benefit or future deductibility is not probable. We recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the tax position.

NextDecade Corporation
Notes to Consolidated Financial Statements

Segments

The Company's chief operating decision maker allocates resources and assesses financial performance on a consolidated basis. As such, for purposes of financial reporting under GAAP during the years ended December 31, 2023 and 2022, the Company operated as a single operating segment.

Smaller Reporting Company

Under Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company qualifies as a "smaller reporting company" because it had less than \$100.0 million in revenue during the year ended December 31, 2023 and the value of its common stock held by non-affiliates as of the end of its most recently completed second fiscal quarter was less than \$700.0 million. For as long as the Company remains a smaller reporting company, it may take advantage of certain exemptions from the SEC's reporting requirements that are otherwise applicable to public companies that are not smaller reporting companies.

Note 3 — Sale of Equity Interests in Rio Bravo

In March 2020 the Company sold its' equity interests in Rio Bravo Pipeline Company, LLC ("Rio Bravo") to a third party for approximately \$ 19.4 million. Under the terms of the agreement, if the Company or its affiliate failed to issue a full notice to proceed to its' EPC contractor prior to December 31, 2024, the purchaser had the right to sell the equity interests back to the Company and the Company had the right to repurchase the equity interests from Buyer.

Of the transaction price of approximately \$ 19.4 million, \$ 15.0 million was received by the Company in March 2020 and the remaining approximate \$ 4.4 million was received in July 2023 upon Rio Grande's issuance of the full notice to proceed to its' EPC contractor. Accordingly, the assets of Rio Bravo have been de-recognized in the consolidated balance sheet as of December 31, 2023.

Note 4 — Property, Plant and Equipment

Property, plant and equipment consisted of the following (in thousands):

	December 31,	
	2023	2022
Rio Grande LNG Facility (not placed in service)	\$ 2,431,389	\$ 197,144
Rio Bravo pipeline (not placed in service)	—	21,017
Corporate and other	7,518	1,491
Total property, plant and equipment, at cost	2,438,907	219,652
Less: accumulated depreciation	(1,174)	(1,006)
Total property, plant and equipment, net	<u>\$ 2,437,733</u>	<u>\$ 218,646</u>

Note 5 — Derivatives

In July 2023, Rio Grande entered into interest rate swaps agreements (the "Swaps") to protect against interest rate volatility by hedging a portion of the floating-rate interest payments associated with the credit facilities described in Note 9 — *Debt*. As of December 31, 2023, Rio Grande has the following Swaps outstanding (in thousands):

Initial Notional Amount	Maximum Notional Amount	Maturity	Weighted Average Fixed Interest Rate Paid	Variable Interest Rate Received
\$ 123,000	\$ 8,500,000	July 12, 2030	3.4 %	USD - SOFR

The Swaps are not designated as cash flow hedging instruments, and changes in fair value are recorded within our Consolidated Statements of Operations.

The Company values the Swaps using an income-based approach based on observable inputs to the valuation model including interest rate curves, risk adjusted discount rates, credit spreads and other relevant data. The fair value of the Swaps is approximately \$ 48.9 million as of December 31, 2023, and is classified as Level 2 in the fair value hierarchy.

NextDecade Corporation
Notes to Consolidated Financial Statements

Note 6 — Leases

The Company commenced the Rio Grande LNG Facility site lease on July 12, 2023 and it has an initial term of 30 years. The Company has the option to renew and extend the term of the lease for up to two consecutive renewal periods of ten years each, but as the Company is not reasonably certain that those options will be exercised, none are recognized as part of our right of use assets and lease liabilities. The Company has also entered into an office space lease which expires on December 31, 2035, and does not include any options for renewal.

For the years ended December 31, 2023 and 2022, our operating lease costs were \$ 6.1 million and \$ 1.1 million, respectively.

Maturity of operating lease liabilities as of December 31, 2023 are as follows (in thousands, except lease term and discount rate):

2024	\$ 8,029
2025	7,615
2026	9,522
2027	9,565
2028	9,609
Thereafter	199,241
Total undiscounted lease payments	243,581
Discount to present value	(94,476)
Present value of lease liabilities	<u>\$ 149,105</u>
Weighted average remaining lease term - years	27.9
Weighted average discount rate - percent	4.0

Other information related to our operating leases is as follows (in thousands):

	Year Ended December 31,	
	2023	2022
Operating cash flows for amounts paid included in the measurement of operating lease liabilities	\$ 3,122	\$ 678
Noncash right-of-use assets recorded for new operating lease liabilities during the period	147,727	1,640

Note 7 — Other Non-Current Assets

Other non-current assets consisted of the following (in thousands):

	December 31,	
	2023	2022
Contributions in aid of construction ⁽¹⁾	\$ 7,534	\$ —
Permitting costs ⁽²⁾	—	8,575
Rio Grande Site Lease initial direct costs ⁽³⁾	—	19,612
Deposits and other	3,487	185
Total other non-current assets	<u>\$ 11,021</u>	<u>\$ 28,372</u>

⁽¹⁾ Contributions in aid of construction relate to amounts paid to third parties to begin construction of utilities required for the Rio Grande LNG Facility.

⁽²⁾ Permitting costs were reclassified to property, plant and equipment in July 2023 with the positive final investment decision on Phase 1 of the Rio Grande LNG Facility.

⁽³⁾ Rio Grande Site Lease initial direct costs were reclassified to operating lease right-of-use asset in July 2023 upon commencement of the Rio Grande site lease.

NextDecade Corporation
Notes to Consolidated Financial Statements

Note 8 — Accrued and Other Current Liabilities

Accrued expenses and other current liabilities consisted of the following (in thousands):

	December 31,	
	2023	2022
Rio Grande LNG Facility costs	\$ 268,821	\$ 12,046
Accrued interest	20,392	—
Employee compensation expense	9,270	6,650
Other accrued liabilities	781	4,488
Total accrued and other current liabilities	<u>\$ 299,264</u>	<u>\$ 23,184</u>

Note 9 — Debt

Debt consisted of the following (in thousands):

	December 31, 2023
Senior Secured Notes and Loans:	
6.67 % Senior Secured Notes due 2033	\$ 700,000
6.72 % Senior Secured Loans due 2033	356,000
7.11 % Senior Secured Loans due 2047	251,000
Total Senior Secured Notes and Loans	1,307,000
Credit Facilities:	
CD Credit Facility	484,000
TCF Credit Facility	59,000
Total debt	1,850,000
Unamortized debt issuance costs	(33,699)
Total non-current debt, net of unamortized debt issuance costs	<u>\$ 1,816,301</u>

Senior Secured Notes and Loans

The 6.67 % Senior Secured Notes (the “Senior Secured Notes”), 6.72 % Senior Secured Loans (the “6.72 % Senior Secured Loans”) and 7.11 % Senior Secured Loans (the “7.11 % Senior Secured Loans” and, together with the 6.72 % Senior Secured Loans, the “Senior Secured Loans”) are senior secured obligations of Rio Grande, ranking senior in right of payment to any and all of Rio Grande’s future indebtedness that is subordinated to the Senior Secured Notes and the Senior Secured Loans, and equal in right of payment with Rio Grande’s other existing and future indebtedness that is senior and secured by the same collateral securing the Senior Secured Notes and Senior Secured Loans. The Senior Secured Notes and Senior Secured Loans are secured on a first-priority basis by a security interest in all of the membership interests in Rio Grande and substantially all of Rio Grande’s assets, pari passu with the CD Credit Agreement and the loans made under the TCF Credit Facility.

Debt Maturities

Years Ending December 31,	Principal Payments
2024 - 2028	\$ —
Thereafter	1,850,000
Total	<u>\$ 1,850,000</u>

NextDecade Corporation
Notes to Consolidated Financial Statements

Credit Facilities

Below is a summary of our committed credit facilities as of December 31, 2023 (in thousands):

	CD Senior Working Capital Facility ⁽¹⁾	CD Credit Facility ⁽¹⁾	TCF Credit Facility ⁽²⁾
Total facility size	\$ 500,000	\$ 9,730,000	\$ 800,000
Less:			
Outstanding balance	—	484,000	59,000
Letters of credit issued	47,662	—	—
Available commitment	<u>\$ 452,338</u>	<u>\$ 9,246,000</u>	<u>\$ 741,000</u>
Priority ranking	Senior secured	Senior secured	Senior secured
Interest rate on outstanding balance	SOFR plus margin of 2.25 %	SOFR plus margin of 2.25 %	SOFR plus margin of 2.25 %
Commitment fees on undrawn balance	0.68 %	0.68 %	0.68 %
Maturity date	July 12, 2030	July 12, 2030	July 12, 2030

⁽¹⁾ The obligations of Rio Grande under the CD Senior Working Capital Facility and CD Credit Facility are secured by substantially all of the assets of Rio Grande as well as a pledge of all of the membership interests in Rio Grande on a first-priority basis, pari passu with the Senior Secured Notes, the Senior Secured Loans and the loans made under the TCF Credit Facility.

⁽²⁾ The obligations of Rio Grande under the TCF Credit Agreement are secured by substantially all of the assets of Rio Grande as well as a pledge of all of the membership interests in Rio Grande on a first-priority basis, pari passu with the Senior Secured Notes, the Senior Secured Loans and the loans made under the CD Credit Agreement. Total Energies Holdings SAS ("Total Holdings") provides contingent credit support to the lenders under the TCF Credit Agreement to pay past due amounts owing from Rio Grande under the agreement upon demand.

Restrictive Debt Covenants

The CD Credit Facility and the TCF Credit Facility (collectively, the "Facilities") include certain covenants and events of default that are supplemental to the covenants and events of default set forth in the P1 Common Terms Agreement and that are customary for project financing facilities of this type, including a requirement that interest rates for a minimum of 75 % of the projected principal amount of Senior Secured Debt outstanding be hedged or have fixed interest rates. In addition, certain covenants and events of default in the Facilities are more restrictive than the corresponding covenants and events of default in the P1 Common Terms Agreement, including covenants limiting Rio Grande's ability to incur additional indebtedness, make certain investments or pay dividends (which are subject to customary conditions set out in the Facilities and certain related financing documents) or distributions on equity interests or subordinated indebtedness or purchase, redeem, or retire equity interests, sell or transfer assets, incur liens, dissolve, liquidate, consolidate, merge, sell, or lease all or substantially all of Rio Grande's assets or enter into certain LNG sales contracts. The Facilities include a requirement for Rio Grande to maintain a historical debt service coverage ratio of at least 1.10 :1.00 at the end of each fiscal quarter starting from the initial principal payment date, a default of which may be cured with equity contributions.

The Senior Secured Notes and Senior Secured Loans contain customary terms and events of default and certain covenants that, among other things, limit Rio Grande's ability to incur additional indebtedness, make certain investments or pay dividends or distributions on equity interests or subordinated indebtedness or purchase, redeem, or retire equity interests, sell or transfer assets, incur liens, dissolve, liquidate, consolidate, merge, or sell or lease all or substantially all of Rio Grande's assets. The Senior Secured Notes and Senior Secured Loans further require Rio Grande to submit certain reports and information and maintain certain LNG offtake agreements. With respect to certain events, including a change of control event and receipt of certain proceeds from asset sales, events of loss or liquidated damages, the Senior Secured Notes and Senior Secured Loans require Rio Grande to make an offer to repurchase or offer to prepay, respectively, at 101 % (with respect to a change of control event) or par (with respect to each other event). The Senior Secured Notes Senior and Secured Loans covenants are subject to a number of important limitations and exceptions, including the terms and covenants contained in the P1 Common Terms Agreement.

NextDecade Corporation
Notes to Consolidated Financial Statements

The Senior Secured Notes require Rio Grande to maintain a debt service coverage ratio of at least 1.10 :1.00 at the end of each fiscal quarter starting from the initial principal payment date. The Senior Secured Loans require Rio Grande to maintain a debt service coverage ratio of at least 1.10 :1.00 at the end of each fiscal quarter starting from the first quarterly payment date to occur on or after the date that is ninety days following the project completion date.

As of December 31, 2023, Rio Grande was in compliance with all covenants related to its respective debt agreements.

Debt Extinguishment

On December 28, 2023, the Company repaid \$ 233.0 million of the outstanding principal balance of the CD Credit Facility. As a result of the repayment, the Company recognized an approximate \$ 9.5 million loss on extinguishment for the year ended December 31, 2023.

Interest Expense

Total interest expense, net of capitalized interest, consisted of the following (in thousands):

	Year Ended December 31,	
	2023	
Interest cost of non-current debt		
Interest per contractual rate	\$	43,268
Amortization of debt issuance costs		41,390
Total interest cost		84,658
Capitalized interest		(34,373)
Total interest expense, net of capitalized interest	\$	50,285

Fair Value Disclosures

The following table shows the carrying amount and estimated fair value of our debt (in thousands):

	December 31, 2023	
	Carrying Value	Fair Value
Senior Secured Notes	\$ 700,000	\$ 743,593
Senior Secured Loans	607,000	632,998

The fair value of the Company's Senior Secured Notes and Senior Secured Loans was calculated based on inputs that are observable in the market or that could be derived from, or corroborated with, observable market data, including interest rates on debt issued by parties with comparable credit ratings.

The fair value of the Company's CD Credit Facility and TCF Credit Facility approximates its' carrying amount due to its variable interest rate, which approximates a market interest rate.

Note 10 — Preferred Stock and Common Stock Warrants

Preferred Stock

As of December 31, 2022, the Company had outstanding 82,948 shares of Series A Convertible Preferred Stock, par value \$ 0.0001 per share (the "Series A Preferred Stock"), 79,239 shares of Series B Convertible Preferred Stock, par value \$ 0.0001 per share (the "Series B Preferred Stock") and 59,366 shares of Series C Convertible Preferred Stock, par value \$ 0.0001 per share (the "Series C Preferred Stock" and, together with the Series A Preferred Stock and the Series B Preferred Stock, the "Convertible Preferred Stock").

The shares of Convertible Preferred Stock bore dividends at a rate of 12 % per annum, which were cumulative and accrued daily from the respective dates of issuance on the \$ 1,000 stated value per share. Such dividends were payable quarterly and may be paid in cash or in-kind. During the year ended December 31, 2023 and 2022, the Company paid-in-kind \$ 20.5 million and \$ 24.3 million of dividends, respectively, to the holders of the Convertible Preferred Stock.

On July 26, 2023, the Convertible Preferred Stock was converted into 59,542,066 shares of common stock.

NextDecade Corporation
Notes to Consolidated Financial Statements

Common Stock Warrants

The Company issued warrants exercisable to purchase Company common stock in connection with its issuances of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock (collectively, the "Common Stock Warrants"). The Company revalues the Common Stock Warrants at each balance sheet date and are included in Level 3 of the fair value hierarchy.

The assumptions used in the Monte Carlo simulation model to estimate the fair value of the Common Stock Warrants are as follows:

	December 31,	
	2023	2022
Stock price	\$ 4.77	\$ 4.94
Exercise price	\$ 0.01	\$ 0.01
Risk-free rate	4.7 %	4.6 %
Volatility	78.4 %	52.5 %
Term (years)	0.5	1.5

The following table shows a reconciliation of changes in the fair value of the Common Stock Warrants which are classified as Level 3 in the fair value hierarchy (in thousands):

	December 31,	
	2023	2022
Beginning balance	\$ 6,790	\$ 3,963
Increase in fair value	1,879	5,747
Exercise	—	(3,564)
Issuance	—	644
Ending balance	<u>\$ 8,669</u>	<u>\$ 6,790</u>

Note 11 — Variable Interest Entity

Intermediate Holdings and its wholly owned subsidiaries, including Rio Grande, have been formed to undertake Phase 1 of the construction and operation of the Rio Grande LNG Facility. The Company is not obligated to fund losses of Intermediate Holdings, however, the Company's capital account, which would be considered in allocating the net assets of Intermediate Holdings were it to be liquidated, continues to share in losses of Intermediate Holdings. Further, Rio Grande has granted the Company decision-making rights regarding the construction of Phase 1 of the Rio Grande LNG Facility and key aspects of its operation, which may only be terminated by equity holders for cause, via agreements with NextDecade LLC. Due to the foregoing, the Company determined that it holds a variable interest in Rio Grande through Intermediate Holdings and is its primary beneficiary, and therefore consolidates Intermediate Holdings in these Consolidated Financial Statements.

The following table presents the summarized assets and liabilities (in thousands) of Intermediate Holdings, which are included in the Company's Consolidated Balance Sheets. The assets in the table below may only be used to settle the obligations of Rio Grande. In addition, there is no recourse to us for the consolidated VIE's liabilities. The assets and liabilities in the table below include assets and liabilities of Intermediate Holdings and its subsidiaries only and exclude intercompany balances between Intermediate Holdings and NextDecade, which are eliminated in the Consolidated Financial Statements of NextDecade.

NextDecade Corporation
Notes to Consolidated Financial Statements

	December 31,	
	2023	2022
Assets		
Current assets		
Cash	\$ 256,237	\$ —
Current derivative asset	17,958	—
Prepaid expenses and other current assets	108	24
Total current assets	274,303	24
Property, plant and equipment, net	2,428,583	194,289
Operating lease right-of-use assets, net	157,053	—
Debt issuance costs, net of amortization	389,695	—
Non-current derivative assets	—	—
Other non-current assets	9,374	28,187
Total assets	\$ 3,259,008	\$ 222,500
Liabilities		
Current liabilities		
Accounts payable	\$ 238,582	\$ 108
Accrued liabilities and other current liabilities	288,779	15,457
Current operating lease liabilities	2,554	—
Total current liabilities	529,915	15,565
Non-current operating lease liabilities	131,901	—
Non-current derivative liability	66,899	—
Non-current debt, net of unamortized debt issuance costs	1,816,301	—
Total liabilities	\$ 2,545,016	\$ 15,565

Note 12 — Stockholders' Equity

Common Stock Purchase Agreements

On February 3, 2023, the Company entered into a common stock purchase agreement (the "Stock Purchase Agreement") for a private placement with HGC NEXT INV LLC and Nineteenth Investment Company LLC, pursuant to which the Company sold an aggregate of 5.8 million shares of the Company common stock for aggregate proceeds of \$ 35.0 million.

On June 13, 2023, the Company entered into a common stock purchase agreement for three private placements with Global LNG North America Corp., an affiliate of TotalEnergies SE pursuant to which we agreed to sell an aggregate of 17.5 % of the Company's common stock outstanding by the closing of third private placement. In aggregate, the Company sold approximately 44.9 million shares for aggregate proceeds of approximately \$ 219.4 million. The details of the three private placements are as follows:

- Approximately 8.0 million shares were sold for proceeds of \$ 40.0 million on June 14, 2023.
- Approximately 22.1 million shares were sold for proceeds of \$ 110.0 million on July 26, 2023.
- Approximately 14.8 million shares were sold for proceeds of \$ 69.4 million on September 8, 2023.

NextDecade Corporation
Notes to Consolidated Financial Statements

Note 13 — Net Loss Per Share

Potentially dilutive securities not included in the diluted net loss per share computations because their effect would have been anti-dilutive were as follows (in thousands):

	Year Ended December 31,	
	2023	2022
Unvested stock and stock units ⁽¹⁾	4,842	1,904
Convertible preferred stock	—	46,533
Common Stock Warrants	1,548	1,382
Total potentially dilutive common shares	6,390	49,819

⁽¹⁾ Includes the impact of unvested shares containing performance conditions to the extent that the underlying performance conditions are satisfied based on actual results as of the respective dates.

Note 14 — Share-based Compensation

We have granted shares of Company common stock, restricted Company common stock and restricted stock units to employees, consultants and non-employee directors under our 2017 Omnibus Incentive Plan.

Total share-based compensation consisted of the following (in thousands):

	Year Ended December 31,	
	2023	2022
Share-based compensation expense:		
Equity awards	\$ 26,039	\$ 7,472
Liability awards	514	—
Total share-based compensation expense	26,553	7,472

The total unrecognized compensation costs at December 31, 2023 relating to equity-classified awards were \$ 52.5 million, which is expected to be recognized over a weighted average period of 1.8 years.

Restricted Stock Awards

Restricted stock awards are awards of Company common stock that are subject to restrictions on transfer and to a risk of forfeiture if the recipient's employment with the Company is terminated prior to the lapse of the restrictions. Restricted stock awards vest based on service conditions and/or performance conditions. The amortization of the value of restricted stock grants is accounted for as a charge to compensation expense, or capitalized, depending on the nature of the services provided by the employee, with a corresponding increase to additional-paid-in-capital over the requisite service period.

Grants of restricted stock to employees, non-employees and non-employee directors that vest based on service and/or performance conditions are measured at the closing quoted market price of our common stock on the grant date.

The table below provides a summary of our restricted stock awards outstanding as of December 31, 2023 and changes during the year ended December 31, 2023 (in thousands, except for per share information):

	Shares	Weighted Average Grant Date Fair Value
		Per Share
Non-vested at January 1, 2023	1,083	\$ 7.51
Granted	107	5.99
Vested	(1,161)	8.55
Forfeited	(16)	6.39
Non-vested at December 31, 2023	13	\$ 2.24

NextDecade Corporation
Notes to Consolidated Financial Statements

Restricted Stock Units and Performance Stock Units

Restricted stock units are stock awards that vest over a service period of one, two, or three years and entitle the holder to receive shares of our common stock upon vesting, subject to restrictions on transfer and to a risk of forfeiture if the recipient terminates employment with us prior to the lapse of the restrictions. Certain performance stock units provide for cliff vesting after a period of three years with payouts based upon market conditions achieved over the defined performance period compared to pre-established performance targets. The settlement amounts of the awards are based on market conditions consisting of total shareholder return ("TSR") and relative total shareholder return ("RTSR") of our common stock.

Where applicable, the compensation for performance stock units containing market conditions of TSR and RTSR are based on a fair value using a Monte Carlo simulation as of the grant date, which utilizes level 3 inputs such as projected stock volatility and projected risk-free rates and remains constant through the vesting period. The number of shares that may be earned at the end of the vesting period ranges from 0 % up to 100 % of the target award amount. Both restricted stock units and performance stock units will be settled in Company common stock (on a one-for-one basis) and are classified as equity awards.

The table below provides a summary of our restricted stock units outstanding as of December 31, 2023 and changes during the year ended December 31, 2023 (in thousands, except for per share information):

	Shares	Weighted Average Grant Date Fair Value Per Share
Non-vested at January 1, 2023	10,304	4.82
Granted	5,680	5.72
Vested	(2,782)	7.82
Forfeited	(403)	5.06
Non-vested at December 31, 2023	12,799	\$ 4.72

Note 15 — Income Taxes

The reconciliation of the federal statutory income tax rate to our effective income tax rate is as follows:

	Year Ended December 31,	
	2023	2022
U.S. federal statutory rate, beginning of year	21 %	21 %
Non-controlling interest	(6)	—
Officers' compensation	(2)	(1)
Other	—	(1)
Valuation allowance	(13)	(19)
Effective tax rate as reported	— %	— %

NextDecade Corporation
Notes to Consolidated Financial Statements

Significant components of our deferred tax assets and liabilities at December 31, 2023 and 2022 are as follows (in thousands):

	December 31,	
	2023	2022
Deferred tax assets		
Net operating loss carryforwards and credits	\$ 54,839	\$ 36,835
Investment in Intermediate Holdings	31,782	—
Property, plant and equipment	—	749
Operating lease liabilities	2,972	187
Other	4,996	3,179
Less: valuation allowance	(91,465)	(36,642)
Total deferred tax assets	3,124	4,308
Deferred tax liabilities		
Operating lease right-of-use assets	(2,809)	(4,308)
Other	(315)	—
Total deferred tax liabilities	(3,124)	(4,308)
Net deferred tax assets (liabilities)	\$ —	\$ —

The federal deferred tax assets presented above do not include the state tax benefits as our net deferred state tax assets are offset with a full valuation allowance.

At December 31, 2023, we had federal net operating loss ("NOL") carryforwards of approximately \$ 260.7 million. Approximately \$ 26.1 million of these NOL carryforwards will expire between 2034 and 2038.

Due to our history of NOLs, current year NOLs and significant risk factors related to our ability to generate taxable income, we have established a valuation allowance to offset our deferred tax assets as of December 31, 2023 and 2022. We will continue to evaluate our ability to release the valuation allowance in the future. Due to our full valuation allowance, we have not recorded a provision for federal or state income taxes during the years ended December 31, 2023 or 2022. Deferred tax assets and deferred tax liabilities are classified as non-current in our Consolidated Balance Sheets.

The Tax Reform Act of 1986 (as amended) contains provisions that limit the utilization of NOL and tax credit carryforwards if there has been a change in ownership as described in Section 382 of the Internal Revenue Code ("Section 382"). Substantial changes in the Company's ownership have occurred that may limit or reduce the amount of NOL carryforwards that the Company could utilize in the future to offset taxable income. The Company has not completed a detailed Section 382 study at this time to determine what impact, if any, that ownership changes may have had on its NOL carryforwards. In each period since its inception, the Company has recorded a valuation allowance for the full amount of its deferred tax assets, as the realization of the deferred tax asset is uncertain. As a result, the Company has not recognized any federal or state income tax benefit in its Consolidated Statement of Operations.

We remain subject to periodic audits and reviews by taxing authorities; however, we did not have any open income tax audits as of December 31, 2023. The federal tax returns for the years beginning 2019 remain open for examination.

Note 16 — Commitments and Contingencies

Legal Proceedings

From time to time the Company may be subject to various claims and legal actions that arise in the ordinary course of business. As of December 31, 2023, management is not aware of any claims or legal actions that, separately or in the aggregate, are likely to have a material adverse effect on the Company's financial position, results of operations or cash flows, although the Company cannot guarantee that a material adverse effect will not occur.

NextDecade Corporation
Notes to Consolidated Financial Statements

Note 17 — Supplemental Cash Flows

The following table provides supplemental disclosure of cash flow information (in thousands):

	Year Ended December 31,	
	2023	2022
Cash paid for interest, net of amounts capitalized	\$ 23,365	\$ —
Non-cash investing activities:		
Accounts payable for acquisition of property, plant and equipment	\$ 238,105	\$ 162
Accrued liabilities for acquisition of property, plant and equipment	268,821	12,046
Accrued liabilities for acquisition of other non-current assets	—	279
Non-cash financing activities:		
Paid-in-kind dividends on Convertible Preferred Stock	\$ 20,431	\$ 24,207
Accrued liabilities for debt and equity issuance costs	764	—

Note 18 — Subsequent Events

NextDecade LLC Revolver

On January 4, 2024, NextDecade LLC entered into a Credit and Guaranty Agreement by and among NextDecade LLC, as borrower, Rio Grande LNG Super Holdings, LLC and Rio Grande LNG Intermediate Super Holdings, LLC, as subsidiary guarantors, MUFG Bank, Ltd., as the administrative agent (the “Administrative Agent”), Wilmington Trust, National Association, as the collateral agent (the “Collateral Agent”), MUFG Bank, Ltd., as coordinating lead arranger and bookrunner and the financial institutions party thereto as lenders. The Credit and Guarantee Agreement provides for the following facilities:

- a revolving loan facility (the “Revolving Loans”) in an amount up to \$ 50 million available to NextDecade LLC to be used for (a) general corporate purposes and working capital requirements of NextDecade LLC and its subsidiaries, including development costs related to the fourth liquefaction train and related common facilities at the Rio Grande LNG Facility, and (b) certain permitted payments on behalf of the Company and its subsidiaries; and
- an interest loan facility (the “Interest Loans” and together with the Revolving Loans, the “Loans”) in an amount up to \$ 12.5 million available to NextDecade LLC to pay interest obligations, fees, and expenses due and payable under the Credit Agreement and the other finance documents.

The principal amount of the Loans must be repaid on the maturity date, which is the earlier of (a) the second anniversary of the Closing Date or such later anniversary of the Closing Date as may be determined by a unanimous decision of the lenders following a written request from NextDecade LLC and (b) ten business days after the date a final investment decision is taken by the board of directors of the Company in respect of the development of the fourth liquefaction train and related common facilities at the Rio Grande LNG Facility. NextDecade LLC may extend the maturity to the date that is ninety days after the date in clause (b) if it delivers written notice to the lenders specifying in reasonable detail its expected source of liquidity to repay all outstanding obligations under the Credit Agreement and the other finance documents on the last day of the requested ninety-day extension. NextDecade LLC may make borrowings based on SOFR plus the applicable margin (4.50 %) or the base rate plus the applicable margin (3.50 %). NextDecade LLC will pay commitment fees on the undrawn amount of the loan commitments.

Additional Rio Grande Senior Notes

On February 9, 2024, Rio Grande issued and sold \$ 190 million aggregate principal amount of 6.85 % Senior Secured Notes due 2047 (the “6.85 % Senior Notes”) pursuant to an indenture between Rio Grande and Wilmington Trust, National Association, as Trustee (the “Indenture”).

The issuance and sale of the 6.85 % resulted in a reduction in the commitments under Rio Grande's existing term loan facilities for Phase 1 from approximately \$ 10.5 billion to approximately \$ 10.3 billion.

The 6.85 % Senior Notes will be amortized over a period of approximately 18 years beginning in mid-2029, with a final maturity in June 2047, and will accrue interest from February 9, 2024 at a rate equal to 6.85 % per annum on the outstanding principal amount, with such interest payable semi-annually, in cash in arrears, on June 30 and December 30 of each year, beginning on June 30, 2024.

Item 9. Changes in and Disagreements with Accountants

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are designed to ensure that information required to be disclosed by us in our Exchange Act reports is recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of "our disclosure controls and procedures," as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of the end of the fiscal year ended December 31, 2023. Based on this evaluation, our principal executive officer and principal financial officer have concluded that, as of December 31, 2023, our disclosure controls and procedures were effective.

Management's Report on Internal Controls Over Financial Reporting

As management, we are responsible for establishing and maintaining adequate internal control over financial reporting for the Company. In order to evaluate the effectiveness of internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act of 2002, we have conducted an assessment, including testing using the criteria in *Internal Control—Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). The Company's system of internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements and, even when determined to be effective, can only provide reasonable assurance with respect to financial statement preparation and presentation.

Based on our assessment, we have concluded that the Company maintained effective internal control over financial reporting as of December 31, 2023, based on criteria in *Internal Control—Integrated Framework (2013)* issued by the COSO.

The Company is neither an accelerated filer nor a large accelerated filer, as defined in Rule 12b-2 under the Exchange Act and, therefore, this Annual Report on Form 10-K does not include an audit report on internal control over financial reporting by the Company's registered public accounting firm. Management's report on internal control over financial reporting for the year ended December 31, 2023 was not required to be attested by the Company's registered public accounting firm pursuant to Item 308(b) of Regulation S-K.

Changes in Internal Control over Financial Reporting

During the most recent fiscal quarter, there were no changes in internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

Securities Trading Plans of Directors and Executive Officers

During the three months ended December 31, 2023, none of our directors or executive officers adopted or terminated any contract, instruction or written plan for the purchase or sale of our securities that was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) or any "non-Rule 10b5-1 trading arrangement."

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

None.

NextDecade Corporation
Notes to Consolidated Financial Statements

Part III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this Item is incorporated by reference to the applicable information in NextDecade's definitive proxy statement, which is to be filed pursuant to Regulation 14A of the Exchange Act within 120 days after the end of NextDecade's fiscal year ended December 31, 2023.

Item 11. Executive Compensation

The information required by this Item is incorporated by reference to the applicable information in NextDecade's definitive proxy statement, which is to be filed pursuant to Regulation 14A of the Exchange Act within 120 days after the end of NextDecade's fiscal year ended December 31, 2023.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this Item is incorporated by reference to the applicable information in NextDecade's definitive proxy statement, which is to be filed pursuant to Regulation 14A of the Exchange Act within 120 days after the end of NextDecade's fiscal year ended December 31, 2023.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by this Item is incorporated by reference to the applicable information in NextDecade's definitive proxy statement, which is to be filed pursuant to Regulation 14A of the Exchange Act within 120 days after the end of NextDecade's fiscal year ended December 31, 2023.

Item 14. Principal Accounting Fees and Services

The information required by this Item is incorporated by reference to the applicable information in NextDecade's definitive proxy statement, which is to be filed pursuant to Regulation 14A of the Exchange Act within 120 days after the end of NextDecade's fiscal year ended December 31, 2023.

NextDecade Corporation
Notes to Consolidated Financial Statements

Part IV

Item 15. Exhibit and Financial Statement Schedules

(a) Financial Statements, Schedules and Exhibits

(1) Financial Statements – NextDecade Corporation and Subsidiaries:

	Page
Report of Independent Registered Public Accounting Firm	47
Consolidated Balance Sheets	49
Consolidated Statements of Operations	50
Consolidated Statements of Stockholders' Equity and Convertible Preferred Stock	51
Consolidated Statements of Cash Flows	52
Notes to Consolidated Financial Statements	53

(2) Financial Statement Schedules:

All schedules are omitted because they are not applicable or the required information is shown in the financial statements or the notes thereto.

(3) Exhibits:

Exhibit No.	Description
3.1	Second Amended and Restated Certificate of Incorporation of NextDecade Corporation, dated July 24, 2017 (Incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K, filed July 28, 2017)
3.2	Amended and Restated Bylaws of NextDecade Corporation, dated July 24, 2017 (Incorporated by reference to Exhibit 3.2 of the Company's Current Report on Form 8-K, filed July 28, 2017)
3.3	Certificate of Designations of Series A Convertible Preferred Stock, dated August 9, 2018 (Incorporated by reference to Exhibit 4.3 of the Company's Registration Statement on Form S-3, filed December 20, 2018)
3.4	Certificate of Designations of Series B Convertible Preferred Stock, dated September 28, 2018 (Incorporated by reference to Exhibit 3.4 of the Company's Quarterly Report on Form 10-Q, filed November 9, 2018)
3.5	Certificate of Designations of Series C Convertible Preferred Stock dated March 17, 2021 (Incorporated by reference to Exhibit 3.1 of the Company's Form 8-K, filed March 18, 2021)
3.6	Certificate of Amendment to Certificate of Designations of Series A Convertible Preferred Stock, dated July 12, 2019 (Incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K, filed July 15, 2019)
3.7	Certificate of Amendment to Certificate of Designations of Series B Convertible Preferred Stock, dated July 12, 2019 (Incorporated by reference to Exhibit 3.2 of the Company's Current Report on Form 8-K, filed July 15, 2019)
3.8	Certificate of Increase to Certificate of Designations of Series A Convertible Preferred Stock of NextDecade Corporation, dated July 15, 2019 (Incorporated by reference to Exhibit 3.7 of the Company's Quarterly Report on Form 10-Q, filed August 6, 2019)
3.9	Certificate of Increase to Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation, dated July 15, 2019 (Incorporated by reference to Exhibit 3.8 of the Company's Quarterly Report on Form 10-Q, filed August 6, 2019)
3.10	Amendment No. 1 to the Amended and Restated Bylaws of NextDecade Corporation, dated March 3, 2021 (Incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K, filed March 4, 2021)
4.1	Specimen Common Share Certificate (Incorporated by reference to Exhibit 4.1 of the Company's Form 10-K, filed March 3, 2020)
4.2	Specimen IPO Warrant Certificate (Incorporated by reference to Exhibit 4.3 of the Amendment No. 7 to the Company's Registration Statement on Form S-1, filed March 13, 2015)

NextDecade Corporation
Notes to Consolidated Financial Statements

4.3	<u>Form of Warrant Agreement between Harmony Merger Corp. and Continental Stock Transfer & Trust Company (Incorporated by reference to Exhibit 4.4 of the Amendment No. 7 to the Company's Registration Statement on Form S-1, filed March 13, 2015)</u>
4.4	<u>Form of Warrant Agreement for the Series A Warrants (Incorporated by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K, filed August 7, 2018)</u>
4.5	<u>Form of Warrant Agreement for the Series B Warrants (Incorporated by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K, filed August 24, 2018)</u>
4.6	<u>Form of Warrant Agreement for the Series C Warrants (Incorporated by reference to Exhibit 4.1 of the Company's Form 8-K, filed March 18, 2021)</u>
4.7	<u>Description of Common Stock of NextDecade Corporation Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 (Incorporated by reference to Exhibit 4.6 of the Company's Form 10-K, filed March 3, 2020)</u>
10.1 [†]	<u>Employment Agreement, dated September 8, 2017, between NextDecade Corporation and Matthew K. Schatzman (Incorporated by reference to Exhibit 10.1 of the Company's Form 8-K, filed September 11, 2017)</u>
10.2 [†]	<u>NextDecade Corporation 2017 Omnibus Incentive Plan (Incorporated by reference to Exhibit 10.1 of the Company's Registration Statement on Form S-8, filed December 15, 2017)</u>
10.3 [†]	<u>Form of Restricted Stock Award Agreement (Incorporated by reference to Exhibit 10.2 of the Company's Form 8-K, filed December 20, 2017)</u>
10.4	<u>Form of Registration Rights Agreement for purchasers of Series A Preferred Stock Incorporated by reference to Exhibit 10.5 of the Company's Form 8-K, filed August 7, 2018)</u>
10.5	<u>Purchaser Rights Agreement by and between NextDecade Corporation and HGC NEXT INV LLC (Incorporated by reference to Exhibit 10.6 of the Company's Form 8-K, filed August 7, 2018)</u>
10.6	<u>Form of Registration Rights Agreement for purchasers of Series B Preferred Stock (Incorporated by reference to Exhibit 10.2 of the Company's Form 8-K, filed August 24, 2018)</u>
10.7	<u>Form of Purchaser Rights Agreement for purchasers of Series B Preferred Stock (Incorporated by reference to Exhibit 10.3 of the Company's Form 8-K, filed August 24, 2018)</u>
10.8	<u>Amendment No. 1 to Registration Rights Agreement, effective as of December 7, 2018, by and between NextDecade Corporation and York Capital Management Global Advisors, LLC, severally on behalf of certain funds or advised by it or its affiliates (Incorporated by reference to Exhibit 10.28 of the Company's Annual Report on Form 10-K, filed March 6, 2019)</u>
10.9	<u>Amendment No. 1 to Registration Rights Agreement, effective as of December 7, 2018, by and between NextDecade Corporation and Valinor Management L.P., severally on behalf of certain funds or accounts for which it is investment manager (Incorporated by reference to Exhibit 10.29 of the Company's Annual Report on Form 10-K, filed March 6, 2019)</u>
10.10	<u>Amendment No. 1 to Registration Rights Agreement, effective as of December 7, 2018, by and between NextDecade Corporation and Bardin Hill Investment Partners LP (formerly Halcyon Capital Management LP), on behalf of the accounts its manager (Incorporated by reference to Exhibit 10.30 of the Company's Annual Report on Form 10-K, filed March 6, 2019)</u>
10.11 [†]	<u>Amendment No. 1 to Employment Agreement, effective January 1, 2019, by and between NextDecade Corporation and Matthew K. Schatzman (Incorporated by reference to Exhibit 10.31 of the Company's Annual Report on Form 10-K, filed March 6, 2019)</u>
10.12 ⁺	<u>Lease Agreement, made and entered into March 6, 2019, by and between Brownsville Navigation District of Cameron County, Texas and Rio Grande LNG, LLC (Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q, filed May 7, 2019)</u>
10.13 ⁺	<u>Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility by and between Rio Grande LNG, LLC as Owner and Bechtel Oil, Gas and Chemicals, Inc. as Contractor, dated as of May 24, 2019 (Incorporated by reference to Exhibit 10.7 of the Company's Quarterly Report on Form 10-Q, filed August 6, 2019)</u>
10.14 ⁺	<u>Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility by and between Rio Grande LNG, LLC as Owner and Bechtel Oil, Gas and Chemicals, Inc. as Contractor, dated as of May 24, 2019 (Incorporated by reference to Exhibit 10.8 of the Company's Quarterly Report on Form 10-Q, filed August 6, 2019)</u>

NextDecade Corporation
Notes to Consolidated Financial Statements

10.15 [†]	<u>Form of Non-Affiliate Director Restricted Stock Award Agreement (Incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q, filed November 5, 2019)</u>
10.16	<u>Purchaser Rights Agreement, dated October 28, 2019, by and between NextDecade Corporation and Nineteenth Investment Company (Incorporated by reference to Exhibit 10.23 of the Company's Annual Report on Form 10-K, filed March 3, 2020)</u>
10.17	<u>Registration Rights Agreement, dated October 28, 2019, by and between NextDecade Corporation and Nineteenth Investment Company (Incorporated by reference to Exhibit 10.24 of the Company's Annual Report on Form 10-K, filed March 3, 2020)</u>
10.18 ^{†*}	<u>Amended and Restated Director Compensation Policy</u>
10.19 ⁺	<u>Omnibus Agreement, entered into as of February 13, 2020, between NextDecade LNG, LLC and Spectra Energy Transmission II, LLC (Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q, filed May 18, 2020)</u>
10.20 ⁺	<u>Precedent Agreement for Firm Natural Gas Transportation Service, made and entered into as of March 2, 2020, by and between Rio Grande LNG Gas Supply LLC and Rio Bravo Pipeline Company, LLC (Incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q, filed May 18, 2020)</u>
10.21 ⁺	<u>Precedent Agreement for Natural Gas Transportation Service, made and entered into as of March 2, 2020, by and between Rio Grande LNG Gas Supply LLC and Valley Crossing Pipeline, LLC (Incorporated by reference to Exhibit 10.3 of the Company's Quarterly Report on Form 10-Q, filed May 18, 2020)</u>
10.22	<u>First Amendment to Lease Agreement, made and entered into as of April 30, 2020, by and between Brownsville Navigation District of Cameron County, Texas and Rio Grande LNG, LLC (Incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K, filed May 4, 2020)</u>
10.23	<u>Second Amendment to Lease Agreement, made and entered into as of April 20, 2022, by and between Brownsville Navigation District of Cameron County, Texas and Rio Grande LNG, LLC (Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q filed August 11, 2022)</u>
10.24 ⁺	<u>First Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of April 22, 2020, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q, filed August 6, 2020)</u>
10.25 ⁺	<u>First Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of April 22, 2020, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.3 of the Company's Quarterly Report on Form 10-Q, filed August 6, 2020)</u>
10.26	<u>Second Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of October 5, 2020, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q, filed November 4, 2020)</u>
10.27	<u>Second Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of October 5, 2020, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q, filed November 4, 2020)</u>
10.28 [†]	<u>Amendment No. 2 to Employment Agreement, dated June 2, 2021, by and between NextDecade Corporation and Matthew K. Schatzman (Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q, filed August 2, 2021)</u>
10.29	<u>Third Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of March 5, 2021, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.35 of the Company's Annual Report on Form 10-K filed March 25, 2021)</u>

NextDecade Corporation
Notes to Consolidated Financial Statements

10.30	<u>Third Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of March 5, 2021, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.36 of the Company's Annual Report on Form 10-K filed March 25, 2021)</u>
10.31	<u>Fourth Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of April 29, 2022, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q filed August 11, 2022)</u>
10.32	<u>Fourth Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of April 29, 2022, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.3 of the Company's Quarterly Report on Form 10-Q filed August 11, 2022)</u>
10.33	<u>Fifth Amendment to Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of September 14, 2022, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.1 of the Company's Quarterly Report on Form 10-Q filed November 10, 2022)</u>
10.34	<u>Fifth Amendment to the Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of September 15, 2022, by and between Rio Grande LNG, LLC and Bechtel, Oil, Gas and Chemicals, Inc. (Incorporated by reference to Exhibit 10.2 of the Company's Quarterly Report on Form 10-Q filed November 10, 2022)</u>
10.35	<u>Form of Series C Convertible Preferred Stock Purchase Agreement, dated as of March 17, 2021 (Incorporated by reference to Exhibit 10.1 of the Company's Form 8-K, filed March 18, 2021)</u>
10.36	<u>Form of Registration Rights Agreement for purchasers of Series C Preferred Stock (Incorporated by reference to Exhibit 10.2 of the Company's Form 8-K, filed March 18, 2021)</u>
10.37 [†]	<u>Form of time-based restricted stock unit agreement</u>
10.38 [†]	<u>Form of performance-based restricted stock unit agreement</u>
10.39	<u>Common Stock Purchase Agreement, dated as of April 6, 2022, by and between the Company and HGC NEXT INV LLC (Incorporated by reference to Exhibit 10.1 of the Company's Form 8-K, filed April 7, 2022)</u>
10.40	<u>Registration Rights Agreement, dated as of April 6, 2022, by and between the Company and HGC NEXT INV LLC (Incorporated by reference to Exhibit 10.2 of the Company's Form 8-K, filed April 7, 2022)</u>
10.41	<u>Common Stock Purchase Agreement, dated as of September 14, 2022, by and between the Company and the various investors party thereto (Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K, filed September 19, 2022)</u>
10.42	<u>Registration Rights Agreement, dated as of September 19, 2022, by and between the Company and the various investors party thereto (Incorporated by reference to Exhibit 10.2 to the Company's Form 8-K, filed September 19, 2022)</u>
10.43	<u>Indenture, dated as of July 12, 2023, by and between Rio Grande LNG, LLC and Wilmington Trust, National Association, as Trustee (Incorporated by reference to Exhibit 10.6 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.44	<u>Credit Agreement, dated as of July 12, 2023, by and among Rio Grande LNG, LLC, as Borrower, MUFG Bank, Ltd., as P1 Administrative Agent, Mizuho Bank (USA), as P1 Collateral Agent, and the other agents and lenders party thereto (Incorporated by reference to Exhibit 10.7 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.45*	<u>First Amendment to Credit Agreement, dated as of November 1, 2023, by and among Rio Grande LNG, LLC, as Borrower, MUFG Bank, Ltd., as P1 Administrative Agent, Mizuho Bank (USA), as P1 Collateral Agent, and the other agents and lenders party thereto</u>

NextDecade Corporation
Notes to Consolidated Financial Statements

10.46	<u>Credit Agreement, dated as of July 12, 2023, by and among Rio Grande LNG, LLC, as Borrower, TotalEnergies Holdings SAS, MUFG Bank, Ltd., as TCF Administrative Agent, Mizuho Bank (USA), as TCF Collateral Agent, and the other agents and lenders party thereto (Incorporated by reference to Exhibit 10.8 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.47*	<u>First Amendment to Credit Agreement, dated as of November 1, 2023, by and among Rio Grande LNG, LLC, as Borrower, TotalEnergies Holdings SAS, MUFG Bank, Ltd., as P1 Administrative Agent, Mizuho Bank (USA), as P1 Collateral Agent, and the other agents and lenders party thereto</u>
10.48	<u>Common Terms Agreement, dated as of July 12, 2023, by and among Rio Grande LNG, LLC, as Borrower, MUFG Bank, Ltd., as P1 Intercreditor Agent, and the senior secured debt holder representatives party thereto from time to time (Incorporated by reference to Exhibit 10.9 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.49*	<u>First Amendment to Common Terms Agreement, dated as of November 1, 2023, by and among Rio Grande LNG, LLC, as Borrower, MUFG Bank, Ltd., as P1 Intercreditor Agent, and the senior secured debt holder representatives party thereto from time to time</u>
10.50*	<u>Second Amendment to Common Terms Agreement, dated as of December 28, 2023, by and among Rio Grande LNG, LLC, as Borrower, MUFG Bank, Ltd., as P1 Intercreditor Agent, and the senior secured debt holder representatives party thereto from time to time</u>
10.51	<u>Collateral and Intercreditor Agreement, dated as of July 12, 2023, by and among Rio Grande LNG, LLC, as Borrower, MUFG Bank, Ltd., as P1 Intercreditor Agent, Mizuho Bank (USA), as P1 Collateral Agent, and the senior secured debt holder representatives party thereto from time to time (Incorporated by reference to Exhibit 10.10 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.52	<u>Pledge Agreement, dated as of July 12, 2023, by and among Rio Grande LNG Holdings, LLC, as Pledgor, and Mizuho Bank (USA), as P1 Collateral Agent (Incorporated by reference to Exhibit 10.11 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.53	<u>Accounts Agreement, dated as of July 12, 2023, by and among Rio Grande LNG, LLC, as Borrower, Mizuho Bank (USA), as P1 Collateral Agent, and JPMorgan Chase Bank, N.A., as P1 Accounts Bank (Incorporated by reference to Exhibit 10.12 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.54	<u>Amended and Restated Limited Liability Company Agreement of Rio Grande LNG Intermediate Holdings, LLC (Incorporated by reference to Exhibit 10.13 of the Company's Quarterly Report on Form 10-Q filed August 14, 2023)</u>
10.55	<u>Credit Agreement, dated as of September 15, 2023, by and among Rio Grande LNG, LLC, as Borrower, Wilmington Trust, National Association, as Administrative Agent, Mizuho Bank (USA) as P1 Collateral Agent, and the senior lenders party thereto (Incorporated by reference to Exhibit 10.9 of the Company's Quarterly Report on Form 10-Q filed November 13, 2023)</u>
10.56*	<u>Credit Agreement, dated as of December 28, 2023, by and among Rio Grande LNG, LLC, as Borrower, Wilmington Trust, National Association, as Administrative Agent, Mizuho Bank (USA) as P1 Collateral Agent, and the senior lenders party thereto</u>
10.57*	<u>Change Orders to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of September 14, 2022, by and between Rio Grande LNG, LLC and Bechtel Energy Inc.: (i) EC00001-EC00003, EC00005, EC00007, EC00012-EC00017, EC00019-EC00021, EC00024-EC00025, EC00029, EC00033-EC00034, EC00038-EC00040, EC00056-EC00057, and EC00070, each dated as of July 13, 2023; (ii) EC00011, dated as of July 14, 2023, (iii) EC00036, EC00074 and EC00066, each dated as of July 17, 2023; (iii) EC00064, dated as of July 19, 2023; (iv) EC00068, dated as of August 11, 2023; (v) EC00058, dated as of September 22, 2023; and (vi) EC00076 and EC00099, each dated as of December 4, 2023</u>
10.58*	<u>Change Orders to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, made and executed as of September 14, 2022, by and between Rio Grande LNG, LLC and Bechtel Energy Inc.: (i) EC00004, EC00006, EC00008, EC00009, EC00018, EC00041-EC00044, EC00046 and EC00071, each dated as of July 13, 2023; (ii) EC00065, dated as of July 19, 2023; (iii) EC00069, dated as of August 11, 2023; (iv) EC00061, dated as of September 22, 2023; and (v) EC00075, dated as of December 11, 2023</u>
21.1*	<u>Subsidiaries of the Company</u>

NextDecade Corporation
Notes to Consolidated Financial Statements

23.1*	Consent of Grant Thornton LLP
31.1*	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1**	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2**	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
97.1†	Incentive Compensation Clawback Policy
101.INS	Inline XBRL Instance Document (the Instance Document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document).
101.SCH*	Inline XBRL Taxonomy Extension Schema Document.
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

* Filed herewith.

** Furnished herewith

† Indicates management contract of compensatory plan.

+ Certain portions of this exhibit have been omitted.

Item 16. Form 10-K Summary

None.

NextDecade Corporation
Notes to Consolidated Financial Statements

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

Signature	Title	Date
<u>/s/ Matthew K. Schatzman</u> Matthew K. Schatzman	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 11, 2024
<u>/s/ Brent E. Wahl</u> Brent E. Wahl	Chief Financial Officer (Principal Financial Officer)	March 11, 2024
<u>/s/ Eric Garcia</u> Eric Garcia	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	March 11, 2024
<u>/s/ Giovanni Oddo</u> Giovanni Oddo	Director	March 11, 2024
<u>/s/ Brian Belke</u> Brian Belke	Director	March 11, 2024
<u>/s/ Frank Chapman</u> Frank Chapman	Director	March 11, 2024
<u>/s/ Avinash Kripalani</u> Avinash Kripalani	Director	March 11, 2024
<u>/s/ Thibaud de Préval</u> Thibaud de Préval	Director	March 11, 2024
<u>/s/ Edward Andrew Scoggins, Jr.</u> Edward Andrew Scoggins, Jr.	Director	March 11, 2024
<u>/s/ William Vratton</u> William Vratton	Director	March 11, 2024
<u>/s/ Spencer Wells</u> Spencer Wells	Director	March 11, 2024
<u>/s/ Tim Wyatt</u> Tim Wyatt	Director	March 11, 2024

NextDecade Corporation
Director Compensation Policy
Effective January 1, 2024

Members of the Board of Directors (the "Board") of NextDecade Corporation (the "Company") who are not employees of the Company or any subsidiary of the Company and who are not appointed to the Board pursuant to any agreement or arrangement with the Company ("Covered Directors") shall be paid the following amounts in consideration for their services on the Board. Each Covered Director will be solely responsible for any tax obligations incurred by such Covered Director as a result of the cash and equity payments such Covered Director receives under this Policy.

Annual Compensation

Cash Compensation

Annual Cash Retainer for each Covered Director. Each Covered Director shall be paid an annual cash retainer of \$100,000 (an "Annual Cash Retainer"). Each Covered Director may elect to receive all or any portion of the Annual Cash Retainer in the form of shares of restricted stock by delivering written notice to the Company by January 15 of a given calendar year or in connection with such Covered Director's appointment to the Board. Such election shall be irrevocable and shall continue for such calendar year. Any portion of the Annual Cash Retainer elected by such Covered Director to be paid in shares of restricted stock (such payment, an "Elective Stock Award") shall be awarded pursuant to and in compliance with the Company's 2017 Omnibus Incentive Plan (as amended from time to time and including any successor thereto, the "Plan") on the same date(s) (the "Award Grant Date") as the Stock Award described below. The number of shares of restricted stock subject to an Elective Stock Award shall equal (i) the dollar amount of the Annual Cash Retainer elected by such Covered Director to be paid in shares of restricted stock divided by (ii) the closing price of the Company's common stock on the Nasdaq Capital Market ("Nasdaq") on the Award Grant Date or, if the Award Grant Date is not a trading day, then the last trading day occurring prior to the Award Grant Date.

Additional Annual Cash Compensation Payable for each Covered Director Committee Chairperson ("Chairperson Cash Compensation"):

- Audit Committee: \$20,000
- Each Other Standing Committee: \$15,000

All Annual Cash Retainers and Chairperson Cash Compensation shall be prorated for partial years of service.

There are no per-meeting attendance fees for Covered Directors for attending Board meetings.

Equity Compensation

Each year, each Covered Director will be granted, in one or more installments, shares of restricted stock in consideration for such Covered Director's services on the Board (each, an ("Annual Stock Award") and, together with Elective Stock Awards, "Stock Awards") pursuant to and in compliance with the Plan. The number of shares of restricted stock subject to an Annual Stock Award shall equal (i) \$125,000 divided by (ii) the closing price of the Company's common stock on Nasdaq on January 31 of such calendar year, unless determined otherwise by the Compensation Committee (the "Award Grant Date"), or, if the Award Grant Date is not a trading day, then the last trading day occurring prior to the Award Grant Date.

Stock Awards shall be prorated based on actual days of service on the Board. The remaining terms and conditions of each Stock Award, including vesting terms and transferability, will be as set forth in the Company's standard award agreement, in the form adopted from time to time by the Board or the Compensation Committee; provided, that all Stock Awards shall vest on the first anniversary of the Award Grant Date.

Expense Reimbursement

Each director of the Company, including Board observers, shall be entitled to receive reimbursement of all reasonable out-of-pocket expenses incurred in connection with attending meetings of the Board. Such reimbursement is in addition to the compensation provided for under this Policy.

Section 409A

This Policy is intended to comply with, or otherwise be exempt from, Section 409A, and, accordingly, to the maximum extent permitted, the Policy shall be interpreted and administered consistent with such intention.

Revisions

The Board may amend, alter, suspend or terminate this Policy at any time and for any reason. No amendment, alteration, suspension or termination of this Policy will materially impair the rights of a member of the Board with respect to compensation that already has been paid or earned, if applicable, unless otherwise mutually agreed between such member and the Company. Termination of this Policy will not affect the Board's or the Compensation Committee's ability to exercise the powers granted to it under the Plan with respect to equity awards granted under the Plan pursuant to this Policy prior to the date of such termination.

AMENDMENT NO. 1 TO CD CREDIT AGREEMENT

This AMENDMENT NO. 1 TO CD CREDIT AGREEMENT (this "Amendment"), dated as of November 1, 2023, amends that certain CD Credit Agreement, dated as of July 12, 2023 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement" and, as it may be further amended, amended and restated, supplemented or otherwise modified from time to time, the "CD Credit Agreement") by and among RIO GRANDE LNG, LLC, a limited liability company formed under the laws of the State of Texas (the "Borrower"), MUFG BANK, LTD., as the Revolving LC Issuing Bank, the SENIOR LENDERS from time to time party thereto, MUFG BANK, LTD., in its capacity as the P1 Administrative Agent (the "P1 Administrative Agent"), and MIZUHO BANK (USA), as the P1 Collateral Agent.

WHEREAS, the parties to this Amendment desire to amend the Existing Credit Agreement as provided herein.

NOW, THEREFORE, in consideration of the foregoing premises and the agreements and undertakings set forth herein, the parties to this Amendment agree as follows:

Section 1. Definitions; Principles of Interpretation.

Capitalized terms used, but not otherwise defined, in this Amendment shall have the respective meanings given to them in the CD Credit Agreement. The principles of interpretation and construction applicable to the CD Credit Agreement pursuant to Section 1.2 (*Principles of Interpretation*) of the CD Credit Agreement shall apply to this Amendment, *mutatis mutandis*.

Section 2. Amendments to CD Credit Agreement.

Effective as of the Amendment Effective Date (as defined below):

(a) the Existing Credit Agreement is hereby amended to delete the stricken text (indicated in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated in the same manner as the following example: double-underlined text) as set forth on Exhibit A attached hereto; and

(b) Exhibit O-1 (*Construction Budget*) to the Existing Credit Agreement is hereby deleted in its entirety and is hereby replaced for all purposes with the new Exhibit O-1 (*Construction Budget*) attached hereto as Exhibit B.

Section 3. Effectiveness of Amendments.

The amendments set forth in Section 2 shall be effective upon the date (the "Amendment Effective Date") on which the P1 Administrative Agent has received duly executed counterparts of this Amendment from Borrower, the P1 Administrative Agent, the Revolving LC Issuing Bank, and each of the Senior Lenders.

Section 4. Representations and Warranties.

The Borrower represents and warrants for the benefit of the P1 Administrative Agent, the Revolving LC Issuing Bank, and the Senior Lenders that:

(a) no Default or Event of Default has occurred and is continuing or will occur upon giving effect to the transactions and agreements contemplated under this Amendment;

(b) the Borrower has the power and authority to execute and deliver, and to perform its obligations under this Amendment and the execution, delivery, and performance of its obligations under this Amendment do not conflict with its Organic Documents; and

(c) this Amendment has been duly executed by the Borrower and (assuming the due execution and delivery by the counterparties hereto) constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

Section 5. Limited Effect on CD Credit Agreement and P1 Financing Documents.

(a) Except as expressly provided for herein, the terms and conditions of the Existing Credit Agreement shall continue unchanged and shall remain in full force and effect. The amendments agreed to herein shall apply solely to the matters set forth herein and such amendments shall not be deemed or construed as a consent to or an amendment of any other matters.

(b) This Amendment shall constitute a P1 Financing Document. Upon the effectiveness hereof, each reference to the CD Credit Agreement in the CD Credit Agreement or in any other P1 Financing Document shall mean and be a reference to the CD Credit Agreement as amended hereby (and as it may be further amended, amended and restated, supplemented or otherwise modified from time to time).

(c) Neither the execution and delivery of this Amendment nor any of the terms, covenants, conditions or other provisions set forth herein are intended, nor shall they be deemed or construed, to effect a novation of any Liens or Senior Secured Obligations under the CD Credit Agreement or to pay, extinguish, release, satisfy or discharge (i) the Senior Secured Obligations under the CD Credit Agreement, (ii) the liability of the Borrower under the CD Credit Agreement or the other P1 Financing Documents or any Senior Secured Obligations or other obligations evidenced thereby, or (iii) any mortgages, deeds of trust, liens, security interests or contractual or legal rights securing all or any part of such Senior Secured Obligations.

(d) Borrower hereby (i) agrees that this Amendment and the transactions contemplated hereby shall not limit or diminish the Borrower's obligations arising under or pursuant to the P1 Financing Documents to which it is a party, (ii) reaffirms all of the Borrower's obligations under the CD Credit Agreement and the other P1 Financing Documents to which it is a party, and (iii) acknowledges and agrees that the CD Credit Agreement and each other P1 Financing Document executed by each Loan Party remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

Section 6. Severability.

If any provision of this Amendment is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. GOVERNING LAW.

THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.

Section 8. Binding Nature and Benefit.

This Amendment shall be binding upon and inure to the benefit of each party hereto and their respective successors and permitted assigns.

Section 9. Counterparts.

This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Amendment shall become effective when it has been executed by the P1 Administrative Agent and when the P1 Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or portable document format ("pdf") shall be effective as delivery of a manually executed counterpart of this Amendment. The words "execution," "signed," "signature," and words of like import in this Amendment shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

RIO GRANDE LNG, LLC
as the Borrower

By: /s/ Brent Wahl
Name: Brent Wahl
Title: Chief Financial Officer

MUFG BANK, LTD.,
as the P1 Administrative Agent

By: /s/ Lawrence Blat
Name: Lawrence Blat
Title: Authorized Signatory

MIZUHO BANK (USA),
as the P1 Collateral Agent

By: /s/ Dominick D'Ascoli
Name: Dominick D'Ascoli
Title: Director

**ABU DHABI COMMERCIAL
BANK, PJSC**

as Senior Lender

By: /s/ Ashish Sharma
Name: Ashish Sharma
Title:

**ARAB PETROLEUM
INVESTMENTS
CORPORATION (APICORP),**
as Senior Lender

By: /s/ Nicholas Thevenot
Name: Nicolas Thevenot
Title: Chief Banking Officer

By: /s/ Mehdi Rizvi
Name: Mehdi Rizvi
Title: Acting Chief Risk
Officer and Head of
Credit Risk

**BANK OF CHINA, NEW YORK
BRANCH**

as Senior Lender

By: /s/ Raymond Qiao

Name: Raymond Qiao

Executive Vice

Title: President

**CLIFFORD CAPITAL PTE.
LTD.,**

as Senior Lender

By: /s/ Wong Shyr Kong
Name: Wong Shyr Kong
Title: Co-Head, Risk

HSBC BANK USA, N.A.,
as Senior Lender

By: /s/ Karun Chopra
Name: Karun Chopra
Director, Real Assets
Title: Finance

**INTESA SANPAOLO, S.P.A.,
NEW YORK BRANCH,**
as Senior Lender

By: /s/ Nicholas A.
Matacchieri
Name: Nicholas A.
Matacchieri
Title: Managing Director

By: /s/ Valerio Colluto
Name: Valerio Colluto
Title: Vice President

**JP MORGAN CHASE BANK,
N.A.,**
as Senior Lender

By: /s/ Arina Mavilian
Name: Arina Mavilian
Title: Authorized Signatory

**THE KOREA DEVELOPMENT
BANK,**
as Senior Lender

By: /s/ Ahn Wook Sang
Name: Ahn Wook Sang
Title: General Manager

KFW IPEX-BANK GMBH

as Senior Lender

By: /s/ Ann-Kathrin Weber

Name: Ann-Kathrin Weber

Assistant Vice

Title: President

By: /s/ Simon Kuppers

Name: Simon Kuppers

Title: Director

**KOOKMIN BANK, NEW YORK
BRANCH**

as Senior Lender

By: /s/ Woo Suk Cha
Name: Woo Suk Cha
Title: Head of IB Unit

MIZUHO BANK, LTD.,
as Senior Lender

By: /s/ Dominick D'Ascoli
Name: Dominick D'Ascoli
Title: Director

MUFG BANK, LTD.

as Senior Lender and Revolving
LC Issuing Bank

By: /s/ Saad Iqbal
Name: Saad Iqbal
Title: Managing Director

**NATIONAL BANK OF
CANADA,**
as Senior Lender

By: /s/ John Niedermier
Name: John Niedermier
Title: Authorized Signatory

By: /s/ Mark Williamson
Name: Mark Williamson
Title: Authorized Signatory

**NATIONAL WESTMINSTER
BANK PLC,**
as Senior Lender

By: /s/ Will Fleming-Smith
Name: Will Fleming-Smith
Title: Director

ROYAL BANK OF CANADA,
as Senior Lender

By: /s/ Michael Sharp
Name: Michael Sharp
Title: Authorized Signatory

**RIYAD BANK HOUSTON
AGENCY,**
as Senior Lender

By: /s/ Chris Chambers
Name: Chris Chambers
Title: General Manager

By: /s/ Roxanne Crawford
Name: Roxanne Crawford
VP Administrative
Title: Officer

**BANCO SANTANDER S.A.,
NEW YORK BRANCH,**
as Senior Lender

By: /s/ Sandra Zelaya
Name: Sandra Zelaya
Title: Vice President

By: /s/ Erika Wershoven
Name: Erika Wershoven
Title: Executive Director

**THE BANK OF NOVA SCOTIA,
HOUSTON BRANCH**
as Senior Lender

By: /s/ Joe Lattanzi
Name: Joe Lattanzi
Title: Managing Director

**STANDARD CHARTERED
BANK,**

as Senior Lender

By: /s/ Sridhar Nagarajan
Name: Sridhar Nagarajan
Title: Regional Head, Project
& Export Finance,
Europe and Americas

**UNITED OVERSEAS BANK
LIMITED, NEW YORK
AGENCY**

as Senior Lender

By: /s/ Eriberto de Guzman

Name: Eriberto de Guzman

Title: Managing Director

By: /s/ Brian Ike

Name: Brian Ike

Title: First Vice President

Conformed to include:
Amendment No. 1, dated as of November 1, 2023

CREDIT AGREEMENT

dated as of July 12, 2023

among

RIO GRANDE LNG, LLC,

as the Borrower,

MUFG BANK, LTD.,

as the P1 Administrative Agent,

MIZUHO BANK (USA),

as the P1 Collateral Agent,

MUFG BANK, LTD.,

as the Revolving LC Issuing Bank, and

THE SENIOR LENDERS PARTY TO THIS AGREEMENT FROM TIME TO TIME ,

and for the benefit of

ABU DHABI COMMERCIAL BANK PJSC , BANCO SANTANDER S.A., NEW YORK BRANCH , BANK OF CHINA, NEW YORK BRANCH , HSBC BANK USA, N.A., INTESA SANPAOLO S.P.A., NEW YORK BRANCH, JPMORGAN CHASE BANK, N.A., MIZUHO BANK, LTD., MUFG BANK, LTD., NATIONAL WESTMINSTER BANK PLC, ROYAL BANK OF CANADA, and STANDARD CHARTERED BANK,

as the Coordinating Lead Arrangers and Joint Bookrunners,

HSBC BANK USA, N.A. and MIZUHO BANK, LTD.,

as the Documentation Agents,

ABU DHABI COMMERCIAL BANK PJSC and BANK OF CHINA, NEW YORK BRANCH ,

as the Regional Coordinators,

ABU DHABI COMMERCIAL BANK PJSC , BANCO SANTANDER S.A., NEW YORK BRANCH , BANK OF CHINA, NEW YORK BRANCH , INTESA SANPAOLO S.P.A., NEW YORK BRANCH, MIZUHO BANK, LTD., and MUFG BANK, LTD.,

as the Syndication Agents,

BANCO SANTANDER S.A., NEW YORK BRANCH , BANK OF CHINA, NEW YORK BRANCH , INTESA SANPAOLO S.P.A. , NEW YORK BRANCH, JPMORGAN CHASE BANK, N.A., MIZUHO BANK, LTD., MUFG BANK, LTD., and ROYAL BANK OF CANADA,

as the Global Coordinators,

THE BANK OF NOVA SCOTIA, HOUSTON BRANCH ,

as the Coordinating Lead Arranger,

NATIONAL BANK OF CANADA ,

as the Joint Lead Arranger,

KFW IPEX-BANK GMBH and THE KOREA DEVELOPMENT BANK ,

as the Arrangers,

and

ARAB PETROLEUM INVESTMENTS CORPORATION , KOOKMIN BANK, NEW YORK BRANCH , and UNITED OVERSEAS BANK LIMITED, NEW YORK AGENCY ,

as the Senior Managing Agents

TABLE OF CONTENTS

	Page
1. DEFINITIONS AND INTERPRETATION	2
1.1. Defined Terms	2
1.2. Principles of Interpretation	2
1.3. UCC Terms	4
1.4. Accounting and Financial Determinations	4
1.5. Definitions Agreement	4
1.6. Divisions	5
1.7. Rates	5
2. LOAN COMMITMENTS AND BORROWING	5
2.1. Construction/Term Loan Commitments	5
2.2. Notice of Construction/Term Loan Borrowings	7
2.3. Borrowing of Construction/Term Loans	8
2.4. Termination, Reduction, and Reallocation of Construction/Term Loan Commitments	8
2.5. Notice of Term Conversion	10
2.6. Revolving Loan Commitments	10
2.7. Notice of Revolving Loan Borrowings	10
2.8. Borrowing of Revolving Loans.	11
2.9. Termination or Reduction of Revolving Loan Commitments.	12
2.10. Borrowings of Senior Loans	12
2.11. Extensions of Construction/Term Loans	14
3. LETTERS OF CREDIT	17
3.1. Revolving LCs	17
3.2. Reimbursement to Revolving LC Issuing Bank	18
3.3. Reimbursement Obligations	20
3.4. Liability of Revolving LC Issuing Bank and the Senior Lenders	21
3.5. Disbursement Procedures	22
3.6. Replacement of Revolving LC Issuing Bank	22
3.7. Cash Collateralization	22
3.8. Reallocation of Participations in Revolving LCs	23
4. REPAYMENTS, PREPAYMENTS, INTEREST AND FEES	23
4.1. Repayment of Construction/Term Loan Borrowings	23
4.2. Repayment of Revolving Loan Borrowings	24
4.3. Interest Payment Dates	24
4.4. Interest Rates	25
4.5. Conversion Options	25
4.6. Post-Maturity Interest Rates; Default Interest Rates	26
4.7. Interest Rate Determination	27

4.8.	Computation of Interest and Fees	27
4.9.	Optional Prepayment	27
4.10.	Mandatory Prepayment	29
4.11.	Time and Place of Payments	33
4.12.	Borrowings and Payments Generally	33
4.13.	Fees	34
4.14.	Pro Rata Treatment	35
4.15.	Sharing of Payments	36
4.16.	Defaulting Lender Waterfall	37
4.17.	Defaulting Lender Cure	38
4.18.	Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Collateral Proceeds	38
4.19.	Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Replacement Debt	38
4.20.	Termination of Senior Secured IR Hedge Transactions in Connection with Voluntary Payments	39
5.	SOFR, BENCHMARK, AND TAX PROVISIONS	39
5.1.	Illegality	39
5.2.	Inability to Determine Rates	40
5.3.	Increased Costs	41
5.4.	Obligation to Mitigate; Replacement of Lenders	42
5.5.	Funding Losses	44
5.6.	Taxes	45
5.7.	Benchmark Replacement Setting	49
6.	REPRESENTATIONS AND WARRANTIES	51
6.1.	General	51
6.2.	Existence	51
6.3.	Financial Condition	51
6.4.	Action	51
6.5.	No Breach	52
6.6.	Government Approvals; Government Rules	53
6.7.	Proceedings	55
6.8.	Environmental Matters	55
6.9.	Taxes	56
6.10.	Tax Status	56
6.11.	ERISA; ERISA Event	56
6.12.	Nature of Business	57
6.13.	Senior Security Documents	57
6.14.	Subsidiaries	57
6.15.	Investment Company Act of 1940	57
6.16.	Energy Regulatory Status	57
6.17.	Material Project Documents; Other Documents	58

6.18.	Regulations T, U and X	59
6.19.	Patents, Trademarks, Etc.	59
6.20.	Disclosure	59
6.21.	Absence of Default	60
6.22.	Real Property	60
6.23.	Solvency	60
6.24.	Legal Name and Place of Business	60
6.25.	No Force Majeure	61
6.26.	Ranking	61
6.27.	Labor Matters	61
6.28.	Anti-Corruption Laws, Anti-Terrorism, and Money Laundering Laws	61
6.29.	Sanctions	62
6.30.	Accounts	62
6.31.	No Condemnation	62
6.32.	Project Development	62
6.33.	Insurance	64
7.	CONDITIONS PRECEDENT	64
7.1.	Conditions to Closing Date and Initial Credit Agreement Advance	64
7.2.	Conditions to Construction/Term Loans	72
7.3.	Conditions to Revolving Loans and Revolving LCs	73
7.4.	Conditions to Each Senior Loan Borrowing and Issuance of Revolving LCs	74
7.5.	Conditions to Term Conversion Date Drawing	75
7.6.	Conditions to Term Conversion Date	75
8.	AFFIRMATIVE COVENANTS	78
8.1.	Maintenance of Existence, Etc.	78
8.2.	RG Facility Entities	78
8.3.	Taxes	78
8.4.	Compliance with Material Project Documents, Etc.	78
8.5.	Maintenance of Credit Agreement Designated Offtake Agreements; LNG Sales Mandatory Prepayment	80
8.6.	Compliance with Material Government Approvals, Etc.	83
8.7.	Compliance with Government Rules, Etc.	83
8.8.	Tax Status	84
8.9.	Project Construction	84
8.10.	Shipping and Sub-charter Arrangements	84
8.11.	Interest Rate Hedging	86
8.12.	Access; Inspection	86
8.13.	Survey	86
8.14.	Allocation of Prepayment of Replacement Debt and Supplemental Debt	87
8.15.	Appointment of Delegates	87
8.16.	Certain Matters in Respect of the P1 Accounts	87
8.17.	Flood Insurance	87

8.18.	Post-Closing Deliverables	89
8.19.	Intellectual Property	89
9.	NEGATIVE COVENANTS	89
9.1.	Nature of Business	90
9.2.	Fundamental Changes	90
9.3.	Asset Sales	90
9.4.	Restrictions on Indebtedness	91
9.5.	Interest Rate Hedging Agreements	94
9.6.	Transactions with Affiliates	94
9.7.	Involuntary Liens of RG Facility Entities	95
9.8.	Energy Regulatory	95
9.9.	Use of Proceeds	95
9.10.	Distributions	96
9.11.	[Reserved]	97
9.12.	RG Facility Entity Voting	97
9.13.	Material Project Documents	99
9.14.	Offtake Agreements	103
9.15.	Capital Improvements	103
9.16.	Material Government Approvals	104
9.17.	Performance Tests	104
9.18.	Historical DSCR	104
9.19.	Accounts	105
9.20.	GAAP	105
9.21.	Margin Stock	105
9.22.	Sanctions	106
10.	REPORTING COVENANTS	106
10.1.	Financial Statements	106
10.2.	Notice of Defaults, Events of Default and Other Events	107
10.3.	Notices under Material Project Documents	108
10.4.	Construction Period Reports	109
10.5.	Operating Period Reports	110
10.6.	Other Documents and Information	110
10.7.	Annual Budgets and Plans	110
10.8.	DSCR Certificates	111
10.9.	Additional Material Project Documents	111
10.10.	Environmental and Social Reporting	111
10.11.	Insurance Reporting	112
10.12.	Gas Supply Reporting	113
10.13.	Other Information	113
11.	EVENTS OF DEFAULT	114
11.1.	Non-Payment of Senior Secured Obligations	114

11.2.	Cross-Acceleration	114
11.3.	Breaches of Covenant	114
11.4.	Breach of Representation or Warranty	116
11.5.	Bankruptcy	116
11.6.	Litigation	116
11.7.	Illegality or Unenforceability	116
11.8.	Abandonment	116
11.9.	Insurance	117
11.10.	Material Government Approvals	117
11.11.	Project Environmental Default	117
11.12.	Material Project Document Defaults	117
11.13.	Event of Loss	119
11.14.	Change of Control	119
11.15.	ERISA Events	119
11.16.	Liens	119
11.17.	Term Conversion; Etc.	119
12.	REMEDIES	120
12.1.	Acceleration Upon Bankruptcy	120
12.2.	Acceleration Upon Other Event of Default	120
12.3.	Action Upon Event of Default	120
12.4.	Application of Proceeds	121
13.	THE P1 ADMINISTRATIVE AGENT	122
13.1.	Appointment and Authority	122
13.2.	Rights as a Senior Lender or Revolving LC Issuing Bank	123
13.3.	Exculpatory Provisions	123
13.4.	Reliance by P1 Administrative Agent	124
13.5.	Delegation of Duties	125
13.6.	Request for Indemnification by the Senior Lenders	125
13.7.	Resignation or Removal of P1 Administrative Agent	125
13.8.	No Amendment to Duties of P1 Administrative Agent Without Consent	126
13.9.	Non-Reliance on P1 Administrative Agent and Senior Lenders	126
13.10.	Coordinating Lead Arranger and Joint Bookrunner, the Documentation Agents, the Regional Coordinators, the Syndication Agents, the Global Coordinators, the Coordinating Lead Arranger, the Joint Lead Arranger, the Arrangers, or the Senior Managing Agents Duties	127
13.11.	Copies	127
13.12.	Erroneous Payments.	127
14.	MISCELLANEOUS PROVISIONS	131
14.1.	Amendments, Etc.	131
14.2.	Entire Agreement	133
14.3.	Governing Law; Jurisdiction; Etc.	134
14.4.	Assignments	135

14.5.	Benefits of Agreement	142
14.6.	Costs and Expenses	142
14.7.	Counterparts; Effectiveness	144
14.8.	Indemnification	144
14.9.	Interest Rate Limitation	147
14.10.	No Waiver; Cumulative Remedies	147
14.11.	Notices and Other Communications.	147
14.12.	Patriot Act Notice	150
14.13.	Payments Set Aside	150
14.14.	Right of Setoff	150
14.15.	Severability	151
14.16.	Survival	151
14.17.	Treatment of Certain Information; Confidentiality	152
14.18.	Waiver of Consequential Damages, Etc.	153
14.19.	Waiver of Litigation Payments	154
14.20.	Reinstatement	154
14.21.	No Recourse	154
14.22.	P1 Intercreditor Agreement	155
14.23.	Termination	155
14.24.	Consultants	155
14.25.	No Fiduciary Duty	155
14.26.	Acknowledgement and Consent to Bail-In of Affected Financial Institutions.	156
14.27.	Cashless Settlement.	156
14.28.	Restricted Lenders	156
14.29.	Disclosure in Connection with Equator Principles.	157

APPENDICES

Appendix I	-	Definitions

SCHEDULES

Schedule 2	-	Lenders, Commitments
Schedule 4.1(a)	-	Amortization Schedule
Schedule 6.6(b)	-	Government Approvals – Final and Non-Appealable
Schedule 6.6(c)	-	Government Approvals – Final (Subject to Open Judicial Appeal Period)
Schedule 6.6(e)	-	Government Approvals – Post Closing
Schedule 6.7	-	Proceedings
Schedule 6.8	-	Environmental Matters
Schedule 6.17	-	Material Project Documents
Schedule 7.1(b)(iii)	-	Consent Agreements
Schedule 7.1(c)(vii)	-	Material Project Party Opinions
Schedule 8.16(c)	-	Application of Loss Proceeds
Schedule 8.18	-	Post-Closing Deliverables
Schedule 9.13(d)	-	Change Orders
Schedule 14.4(j)	-	Disqualified Institutions
Schedule 14.11	-	Notice Information

EXHIBITS

Exhibit A	-	Form of Construction/Term Loan Note
Exhibit B	-	Form of Revolving Loan Note
Exhibit C	-	Form of Revolving LC Request for Issuance
Exhibit D-1	-	Form of Construction/Term Loan Borrowing Notice
Exhibit D-2	-	Form of Revolving Loan Borrowing Notice
Exhibit E	-	[Reserved]
Exhibit F-1	-	Form of Lender Assignment Agreement
Exhibit F-2	-	Form of Affiliated Lender Assignment Agreement
Exhibit G	-	Form of Notice of Term Conversion
Exhibit H-1	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Lenders that are not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-2	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Participants that are not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-3	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Participants that are Partnerships for U.S. Federal Income Tax Purposes)
Exhibit H-4	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Lenders that are Partnerships for U.S. Federal Income Tax Purposes)
Exhibit I	-	Form of Insurance Advisor Closing Date Certificate
Exhibit J	-	Form of Independent Engineer Advance Certificate
Exhibit K	-	Form of Borrower Advance Certificate
Exhibit L	-	Form of Independent Engineer Term Conversion Certificate
Exhibit M	-	Form of Borrower Term Conversion Certificate
Exhibit N	-	Form of Insurance Advisor Term Conversion Certificate
Exhibit O-1	-	Construction Budget
Exhibit O-2	-	Construction Schedule
Exhibit P-1	-	Pre-Completion Distribution Release Test and Lenders' Reliability Test
Exhibit P-2	-	Pre-Completion Distribution Release Test Certificates
Exhibit P-3	-	LRT Certificates
Exhibit Q	-	Dutch Auction Procedures

This **CREDIT AGREEMENT** (this “**Agreement**”), dated as of July 12, 2023, is by and among:

- (1) **RIO GRANDE LNG, LLC**, a Texas limited liability company (the “**Borrower**”);
- (2) **MUFG BANK, LTD.**, as the P1 Administrative Agent;
- (3) **MIZUHO BANK (USA)**, as the P1 Collateral Agent;
- (4) **MUFG BANK, LTD.**, as the Revolving LC Issuing Bank; and
- (5) each of the Senior Lenders from time to time party hereto;

each a “**Party**” and together the “**Parties**”;

and for the benefit of **ABU DHABI COMMERCIAL BANK PJSC, BANCO SANTANDER S.A., NEW YORK BRANCH, BANK OF CHINA, NEW YORK BRANCH, HSBC BANK USA, N.A., INTESA SANPAOLO S.P.A., NEW YORK BRANCH, JPMORGAN CHASE BANK, N.A., MIZUHO BANK, LTD., MUFG BANK, LTD., NATIONAL WESTMINSTER BANK PLC, ROYAL BANK OF CANADA, and STANDARD CHARTERED BANK**, as the Coordinating Lead Arrangers and Joint Bookrunners, **HSBC BANK USA, N.A. and MIZUHO BANK, LTD.** as the Documentation Agents, **ABU DHABI COMMERCIAL BANK PJSC and BANK OF CHINA, NEW YORK BRANCH** as the Regional Coordinators, **ABU DHABI COMMERCIAL BANK PJSC, BANCO SANTANDER S.A., NEW YORK BRANCH, BANK OF CHINA, NEW YORK BRANCH, INTESA SANPAOLO S.P.A., NEW YORK BRANCH, MIZUHO BANK, LTD., and MUFG BANK, LTD.**, as the Syndication Agents, **BANCO SANTANDER S.A., NEW YORK BRANCH, BANK OF CHINA, NEW YORK BRANCH, INTESA SANPAOLO S.P.A., NEW YORK BRANCH, JPMORGAN CHASE BANK, N.A., MIZUHO BANK, LTD., MUFG BANK, LTD., and ROYAL BANK OF CANADA**, as the Global Coordinators, **THE BANK OF NOVA SCOTIA, HOUSTON BRANCH**, as the Coordinating Lead Arranger, **NATIONAL BANK OF CANADA**, as the Joint Lead Arranger, **KFW IPEX-BANK GMBH and THE KOREA DEVELOPMENT BANK**, as the Arrangers, and **ARAB PETROLEUM INVESTMENTS CORPORATION, KOOKMIN BANK, NEW YORK BRANCH, and UNITED OVERSEAS BANK LIMITED, NEW YORK AGENCY**, as the Senior Managing Agents.

WHEREAS:

- (A) the Borrower intends, among other things, (i) to own, upon the design, engineering, development, procurement, construction, installation thereof, the P1 Train Facilities, (ii) to own indirectly, upon the design, engineering, development, procurement, construction, installation thereof, certain Common Facilities at the Rio Grande Facility, (iii) to acquire directly (in respect of the P1 Train Facilities) or indirectly (in respect of the Common Facilities) subleases and easements in the land underlying and appurtenant to the Rio Grande Facility, (iv) acquire rights of usage over and in the Rio Grande Facility, (v) to cause the design, engineering, development, procurement, construction, installation, and insurance of the P1 Train Facilities and such Common Facilities, and (vi) to cause the operation and maintenance of the Rio Grande Facility, in each case and as relevant, subject to the CFAA and other Material Project Documents;

- (B) the Borrower has or will incur Senior Secured Debt to fund, *inter alia*, the design, engineering, development, procurement, construction, installation, testing, completion, ownership, operation, and maintenance of the Project;
- (C) the Borrower has requested that the Senior Lenders establish a credit facility, pursuant to which (i) the Construction/Term Lenders will make available and provide, upon the terms and conditions set forth herein, the construction/term loans described herein to partially finance such design, engineering, development, procurement, construction, installation, testing, completion, ownership, operation, and maintenance of the Project, to pay certain fees and expenses associated with this Agreement and the loans made hereunder, as further described herein, (ii) the Revolving Lenders will make available and provide, upon the terms and conditions set forth herein, the revolving loans described herein to finance certain working capital requirements of the Borrower, and (iii) the Revolving LC Issuing Bank will, upon the terms and conditions set forth herein, issue the Revolving LCs described herein;
- (D) the Borrower has granted certain security in the Collateral for the benefit of the Senior Secured Parties pursuant to the P1 Collateral Documents; and
- (E) the Construction/Term Lenders, the Revolving Lenders, and the Revolving LC Issuing Bank are willing to make the credit facilities described herein available upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Defined Terms

Unless otherwise defined herein in Appendix I, capitalized terms used herein shall have the meanings provided in the Common Terms Agreement.

1.2. Principles of Interpretation

- (a) In this Agreement, except to the extent specified to the contrary or where the context otherwise requires:
 - (i) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement;
 - (ii) references to “**Articles**”, “**Sections**”, “**Schedules**”, “**Exhibits**”, and “**Appendices**” are references to sections of, and schedules, exhibits and appendices to, this Agreement;
 - (iii) references to “**assets**” includes property, revenues, and rights of every description (whether real, personal, or mixed and whether tangible or intangible);

- (iv) references to an **"amendment"** includes a supplement, replacement, novation, restatement, or re-enactment and **"amended"** is to be construed accordingly;
 - (v) references to any Government Rule includes any amendment or modification to such Government Rule, and all regulations, rulings, and other Government Rules promulgated under such Government Rule;
 - (vi) subject to Section 1.5, except where a document or agreement is expressly stated to be in the form "in effect" on a particular date, references to any document or agreement, including this Agreement, shall be deemed to include references to such document or agreement as amended, from time to time in accordance with its terms and (where applicable) subject to compliance with the requirements set forth herein;
 - (vii) references to any Party or party to any other document or agreement shall include its successors and permitted assigns;
 - (viii) words importing the singular include the plural and vice versa;
 - (ix) words importing the masculine include the feminine and vice versa;
 - (x) the words **"include"**, **"includes"**, and **"including"** are not limiting;
 - (xi) references to **"days"** shall mean calendar days, unless the term "Business Days" shall be used;
 - (xii) references to **"months"** shall mean calendar months and references to **"years"** shall mean calendar years;
 - (xiii) unless the contrary indication appears, a reference to a time of day is a reference to the time of day in New York, New York; and
 - (xiv) if any term is defined both in the Common Terms Agreement and in this Agreement, the definition in this Agreement shall prevail.
- (b) This Agreement is the result of negotiations among, and has been reviewed by all parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties hereto, and no ambiguity shall be construed in favor of or against any party hereto.
 - (c) Unless a contrary intention appears, a term used in any notice given under or in connection herewith has the same meaning as in this Agreement.
 - (d) If any term is defined herein and has a different definition in any other P1 Financing Document, then such term shall have the definition set forth herein until the Credit Agreement Discharge Date for purposes of this Agreement and all other P1 Financing Documents (it being understood that the term herein shall benefit solely the parties hereto and shall not benefit the Senior Secured Parties to any other P1 Financing Document). For the avoidance of any doubt, if this Section 1.2(d) applies, the compliance by the Borrower with the provisions of all other P1 Financing Documents shall be determined using the defined term set

forth herein and not in such other P1 Financing Documents and the Borrower shall not be permitted to take any action or permit any circumstance to subsist if such action or circumstance would not be permitted by any other P1 Financing Document, as interpreted using the defined term set forth herein. For the further avoidance of any doubt, if this Section 1.2(d) applies and any CTA Default or CTA Event of Default would occur as a result of the application of this Section 1.2(d) but would not otherwise occur under the Common Terms Agreement, then a Default or Event of Default will occur hereunder but shall not occur under the Common Terms Agreement and any waiver or consent required in respect thereof shall be sought and granted or withheld in accordance herewith and not in accordance with the Common Terms Agreement or any other P1 Financing Document. This Section 1.2(d) shall cease to apply on the Credit Agreement Discharge Date.

1.3. UCC Terms

Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the respective meanings given to those terms in the UCC.

1.4. Accounting and Financial Determinations

Notwithstanding Section 1.4 (*Accounting and Financial Determinations*) of the Common Terms Agreement, except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any P1 Financing Document, then such ratio or requirement shall be modified in a manner determined as soon as reasonably practicable and in good faith by the Borrower and set forth in a written notice to the P1 Administrative Agent that preserves the original intent thereof in light of such change in GAAP; provided, that (a) such modification shall not take effect until agreed to by the P1 Administrative Agent, (b) until so modified, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the P1 Administrative Agent financial statements and other documents required under this Agreement setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP, and (c) upon the agreement between the P1 Administrative Agent and the Borrower as to such modification, this Agreement shall be deemed amended to the extent necessary to give effect to such modification without the consent of any Party hereto.

1.5. Definitions Agreement

Terms defined herein or in any other P1 Financing Document with reference to the Definitions Agreement shall be defined with reference to the Definitions Agreement as in effect on the date hereof; provided, that, if the Definitions Agreement is amended upon approval in accordance with Section 14.1 hereof or as otherwise permitted hereunder, then such terms shall be defined with reference to the Definitions Agreement as in effect on the date of such amendment.

1.6. Divisions

For all purposes under the P1 Financing Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws) (a) if any asset, right, obligation, or liability of any Person becomes the asset, right, obligation, or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

1.7. Rates

The P1 Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to Base Rate, the Benchmark, any component definition thereof or rates referred to in the definition thereof or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Benchmark or any other Benchmark prior to its discontinuance or unavailability or (b) the effect, implementation or composition of any Conforming Changes. The P1 Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of Base Rate, the Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The P1 Administrative Agent may select information sources or services in its reasonable discretion to ascertain Base Rate or the Benchmark, or any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Senior Lender, or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

2. LOAN COMMITMENTS AND BORROWING

2.1. Construction/Term Loan Commitments

- (a) Subject to the terms and conditions set forth herein, each Construction/Term Lender, severally and not jointly, shall make Construction/Term Loans to the Borrower from time to time during the Construction/Term Loan Availability Period in an aggregate outstanding principal amount not in excess of such Construction/Term Lender's Construction/Term Loan Commitment.
- (b) After giving effect to the making of any Construction/Term Loans, the aggregate outstanding principal amount of all Construction/Term Loans shall not exceed the Aggregate Construction/Term Loan Commitment.
- (c) Each Construction/Term Loan Borrowing shall be in an amount specified in a Borrowing Notice delivered pursuant to Section 2.2.

- (d) Proceeds of the Construction/Term Loans (other than amounts netted from the proceeds of the Construction/Term Loans and applied directly to the payment of any interest, fees, costs, expenses, or other amounts required to be paid pursuant to Section 5.5, in each such case that are due and payable to the Credit Agreement Senior Secured Parties hereunder or pursuant to any P1 Financing Document) shall be deposited into the P1 Construction Account solely to fund, subject to the terms and conditions set forth herein:
- (i) P1 Project Costs to the extent permitted pursuant to Section 3.1 (~~P1~~ *Construction Account*) of the P1 Accounts Agreement; and
 - (ii) on the Term Conversion Date, a Construction/Term Loan Borrowing up to the lower of (A) the amount required to cause the ratio of (1) outstanding principal amounts of borrowed Indebtedness (excluding Permitted Subordinated Debt) including the aggregate amount of the proceeds of the Construction/Term Loans made on or prior to such date to (2) the Aggregate Funded Equity to not exceed 75:25 after giving pro forma effect to any Extraordinary Distribution to be made on the Term Conversion Date and (B) the aggregate remaining Aggregate Construction/Term Loan Commitment (the “**Term Conversion Date Drawing**”).
- (e) Construction/Term Loans repaid or prepaid may not be reborrowed.
- (f) The Construction/Term Loans shall be divided among three tranches: (i) “Tranche A” in an amount equal to \$3,000,000,000 (“**Tranche A**”), (ii) “Tranche B” in an amount equal to \$750,000,000 (“**Tranche B**”), and (iii) “Tranche C” in an amount equal to \$6,550,000,000 (“**Tranche C**”), in each case, as set forth in Schedule 2.
- (g) Disbursements under the Construction/Term Loan Commitment shall be made in the following order:
- (i) *first*, under Tranche A until all Tranche A commitments are fully utilized;
 - (ii) *second*, under Tranche B until all Tranche B commitments are fully utilized; and
 - (iii) *third*, under Tranche C until all Tranche C commitments are fully utilized.
- (h) Notwithstanding the tranching of the Construction/Term Loans into Tranche A, Tranche B, and Tranche C, except as otherwise expressly set forth herein, all such tranches of Construction/Term Loans and all commitments with respect to Construction/Term Loans shall rank *pari passu* with each other, constitute the same Class of Senior Loans, and have identical terms and conditions to each other (including, with respect to outstanding Construction/Term Loans, rights to payment of principal, interest, fees, or other obligations under the Construction/Term Loan or any other P1 Financing Document, rights to exercise remedies, rights to share in Collateral securing the Construction/Term Loans, and rights to give or withhold any approval, consent, authorization, or vote required or permitted to be given by or on behalf of any Construction/Term Lender under the Construction/Term Loan or any other P1 Financing Document), excepting only

the order in which Construction/Term Loans under each such tranche are funded and the order in which Construction/Term Loan Commitments are terminated (as specified in Section 2.4(e)).

2.2. Notice of Construction/Term Loan Borrowings

- (a) From time to time, but no more frequently than twice per calendar month (except as required for the payment of interest or Commitment Fees during the Construction/Term Loan Availability Period, and for any draw of remaining Construction/Term Loan Commitments on the last day of the Construction/Term Loan Availability Period), subject to the limitations set forth in Section 2.1, the Borrower may request a Construction/Term Loan Borrowing by delivering to the P1 Administrative Agent and the P1 Collateral Agent a properly completed Construction/Term Loan Borrowing Notice not later than 11:00 a.m., New York City time, on or before the fifth U.S. Government Securities Business Day prior to the proposed Borrowing Date; provided, that the notice periods set forth in this clause (a) shall not apply with respect to the Construction/Term Loan Borrowing Notice for the Construction/Term Loan Borrowing on the Closing Date, which Construction/Term Loan Borrowing Notice may be delivered no later than 1:00 p.m. on the Business Day before the Closing Date.
- (b) Each Construction/Term Loan Borrowing Notice delivered pursuant to this Section 2.2 shall refer to this Agreement and specify:
 - (i) the amount of such requested Construction/Term Loan Borrowing;
 - (ii) the requested date of the Construction/Term Loan Borrowing (which shall be a Business Day);
 - (iii) whether the requested Construction/Term Loan Borrowing is of SOFR Loans or Base Rate Loans; and
 - (iv) that each of the conditions precedent to such Construction/Term Loan Borrowing has been satisfied or waived as required hereunder.
- (c) The currency specified in a Construction/Term Loan Borrowing Notice must be Dollars.
- (d) The amount of the proposed Construction/Term Loan Borrowing must be an amount that is no more than the undisbursed Aggregate Construction/Term Loan Commitment and (i) not less than \$10,000,000 and an integral multiple of \$1,000,000 or (ii) if the undisbursed Aggregate Construction/Term Loan Commitment is less than \$10,000,000, equal to the undisbursed Aggregate Construction/Term Loan Commitment.
- (e) The P1 Administrative Agent shall promptly (and in any event on the same Business Day, or, if such Construction/Term Loan Borrowing Notice is delivered to the P1 Administrative Agent later than 1:00 p.m., New York City time, on the following Business Day) notify each Construction/Term Lender of any Construction/Term Loan Borrowing Notice delivered pursuant to this Section 2.2, together with each such Construction/Term Lender's share of the requested

Construction/Term Loan Borrowing (based on such Construction/Term Lender's Construction/Term Loan Tranche Percentage).

- (f) If no election as to whether the requested Construction/Term Loan Borrowing is of SOFR Loans or Base Rate Loans, then the requested Construction/Term Loan Borrowing shall be Base Rate Loans.

2.3. Borrowing of Construction/Term Loans

Subject to Section 2.1 and Section 2.10, on the proposed Borrowing Date of each Construction/Term Loan Borrowing, each Construction/Term Lender shall make a Construction/Term Loan in the amount of its Construction/Term Loan Tranche Percentage(s) of such Construction/Term Loan Borrowing by wire transfer of immediately available funds to the P1 Administrative Agent, not later than 1:00 p.m., New York City time, and the P1 Administrative Agent shall deposit the amounts so received as set forth in Section 2.1(d); provided, that if a Construction/Term Loan Borrowing does not occur on the proposed Borrowing Date because any condition precedent to such requested Construction/Term Loan Borrowing herein specified has not been met, the P1 Administrative Agent shall return the amounts so received to each Construction/Term Lender without interest as soon as possible.

2.4. Termination, Reduction, and Reallocation of Construction/Term Loan Commitments

- (a) All unused Construction/Term Loan Commitments, if any, shall be automatically and permanently terminated on the last day of the Construction/Term Loan Availability Period.
- (b) The Borrower may, upon at least three Business Days' notice to the P1 Administrative Agent (which shall promptly notify the Revolving LC Issuing Bank and Construction/Term Lenders), terminate in whole or reduce ratably in part portions of the Construction/Term Loan Commitments; provided, that any such partial reduction shall be in the aggregate amount of \$10,000,000 or an integral multiple of \$500,000 in excess thereof; provided, further, that any such cancellation prior to the Project Completion Date shall only be permitted if the funds under the cancelled Construction/Term Loan Commitments are not reasonably expected to be necessary to achieve the Project Completion Date by the Date Certain (as confirmed by the P1 Administrative Agent in consultation with the Independent Engineer); provided, further, that a notice of termination or reduction may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the P1 Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. ~~The Borrower shall specify in any reduction notice delivered pursuant to this Section 2.4(b) the specific sub-commitments that are being reduced.~~
- (c) Upon the incurrence of any Replacement Debt, the Construction/Term Loan Commitments shall be reduced by an amount equal to (i) the commitment amount of such Replacement Debt *minus* (ii) the amounts set forth in Section 2.4(b)(i)(B)-(EF) (*Replacement Debt*) of the Common Terms Agreement; provided, that, from and after April 1, 2025, such amount in this clause (c) shall be allocated on *apro rata* basis between the outstanding Construction/Term Loan Commitments

hereunder and the outstanding "Construction/Term Loan Commitments" under and as defined in the TCF Credit Agreement and the amount of Commitments terminated hereunder will be reduced accordingly. The Borrower shall provide notice (each a "Replacement Debt Commitment Reduction Notice") to the P1 Administrative Agent of any anticipated reduction in commitments pursuant to this Section 2.4(c) by no later than 1:00 pm on the second Business Day prior to the date of such anticipated reduction in commitments, which notice the P1 Administrative Agent shall promptly forward to each Senior Lender on the same day that it is received from the Borrower; provided, that such notice of termination or reduction by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the P1 Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Each Specified Senior Lender may, by notice to the P1 Administrative Agent in writing or by telephone (confirmed in writing) no later than 5:00 pm one Business Day after receipt of a Replacement Debt Commitment Reduction Notice elect to decline all (but not less than all) of such reduction in Construction/Term Loan Commitments pursuant to this Section 2.4(c) (the amount of such declined Construction/Term Loan Commitment reductions hereinafter referred to as the "Declined Replacement Debt Commitments"). The aggregate amount of Declined Replacement Debt Commitments shall be allocated to the Non-Declining Senior Lenders on a *pro rata* basis in accordance with the aggregate amount of their respective unfunded Construction/Term Loan Commitments; provided, that, if the amount of Declined Replacement Debt Commitments exceeds the aggregate amount of unfunded Construction/Term Loan Commitments held by the Non-Declining Senior Lenders (such excess amounts (if any), the "Excess Replacement Debt Commitments"), the Excess Replacement Debt Commitments shall be allocated to the Specified Senior Lenders that have declined Replacement Debt on a *pro rata* basis in accordance with the aggregate amount of their respective unfunded Construction/Term Loan Commitments. For purposes of this Section 2.4(c), Replacement Debt shall be deemed "incurred" upon the execution of the Senior Secured Debt Instruments in respect thereof (irrespective of the satisfaction or waiver of the conditions precedent thereunder to the initial disbursement thereof or initial issuance of letters of credit thereunder).

- (d) All unused Construction/Term Loan Commitments, if any, shall be terminated upon the occurrence of an Event of Default if required pursuant to Section 12.1 or Section 12.2 in accordance with the terms thereof.
- (e) Any termination or reduction of the Construction/Term Loan Commitments pursuant to this Section 2.4 shall be permanent. Other than as expressly provided in Section 2.4(c), each reduction of the Construction/Term Loan Commitments shall be made ratably among the Construction/Term Lenders in accordance with their Construction/Term Loan Commitment Percentage and ratably among all Tranches; provided, that, notwithstanding the foregoing, any such reduction pursuant to Section 2.4(c) shall be applied (i) to the Construction/Term Loan Tranche A Commitments in accordance with each applicable Construction/Term Lender's Construction/Term Loan Tranche A Percentage until such time as all Construction/Term Loan Commitments in respect of Tranche A

shall have been reduced to zero and (ii) thereafter, to all remaining Construction/Term Loan Commitments ratably.

2.5. Notice of Term Conversion

The Borrower shall deliver to the P1 Administrative Agent and the P1 Collateral Agent a properly completed Notice of Term Conversion, no later than 1:00 p.m., New York City time, on or before the fifth Business Day prior to the proposed Term Conversion Date; provided, that the Borrower may not provide a Notice of Term Conversion more than thirty Business Days prior to the proposed Term Conversion Date.

2.6. Revolving Loan Commitments

- (a) Subject to the terms and conditions set forth herein, each Revolving Lender, severally and not jointly, shall (i) make Revolving Loans (other than Revolving LC Loans) to the Borrower during the Revolving Loan Availability Period, in an aggregate principal amount not in excess of such Revolving Lender's Available Revolving Loan Commitment and (ii) participate in the issuance of any Revolving LCs (and any drawings of the Revolving LC Available Amounts thereunder) from time to time during the Revolving Loan Availability Period in an aggregate outstanding principal amount not in excess of such Revolving Lender's Revolving Loan Commitment.
- (b) After giving effect to the making of any Revolving Loans (other than Revolving LC Loans), the aggregate outstanding principal amount of all Revolving Loans shall not exceed the Available Aggregate Revolving Loan Commitment at such time.
- (c) Each Revolving Loan Borrowing shall be in an amount specified in a Borrowing Notice delivered pursuant to Section 2.7.
- (d) Proceeds of the Revolving Loans (other than Revolving LC Loans which shall be used to repay the Revolving LC Issuing Bank for Revolving LC Disbursements) shall be used solely for (i) the payment of transaction fees and expenses, (ii) payment of gas purchase, hedging, transportation, balancing and storage costs and expenses (including to meet credit support requirements under gas purchase, hedging, transportation, balancing or storage agreements), (iii) to provide credit support as may be required from time to time under Project-related agreements on behalf of the Borrower or the RG Facility Entities, (iv) to fund in cash or to issue Revolving LCs to satisfy the DSRA Reserve Amount in respect of any Senior Secured Debt Instrument, and (v) other working capital and other general corporate purposes.
- (e) Revolving Loans repaid or prepaid may be re-borrowed at any time and from time to time until the expiration of the Revolving Loan Availability Period.

2.7. Notice of Revolving Loan Borrowings

- (a) From time to time, subject to the limitations set forth in Section 2.6, the Borrower may request a Revolving Loan Borrowing by delivering to the P1 Administrative Agent and the P1 Collateral Agent a properly completed Revolving Loan Borrowing Notice, no later than 11:00 a.m., New York City time, on or before the

fifth U.S. Government Securities Business Day prior to the proposed Borrowing Date in the case of Revolving Loans that are SOFR Loans and on or before the first Business Day prior to the proposed Borrowing Date in the case of Revolving Loans that are Base Rate Loans.

- (b) Each Revolving Loan Borrowing Notice delivered pursuant to this Section 2.7 shall refer to this Agreement and specify:
 - (i) the amount of such requested Revolving Loan Borrowing;
 - (ii) the requested date of such Revolving Loan Borrowing (which shall be a Business Day);
 - (iii) whether the requested Revolving Loan Borrowing is of SOFR Loans or Base Rate Loans; and
 - (iv) that each of the conditions precedent to such Revolving Loan Borrowing has been satisfied or waived as required hereunder.
- (c) The currency specified in a Revolving Loan Borrowing Notice must be Dollars.
- (d) The amount of the proposed Revolving Loan Borrowing must be an amount that is no more than the undisbursed Available Aggregate Revolving Loan Commitment and (i) not less than \$5,000,000 and an integral multiple of \$1,000,000 or (ii) if the undisbursed Available Aggregate Revolving Loan Commitment is less than \$5,000,000, equal to the undisbursed Available Revolving Loan Commitment.
- (e) The P1 Administrative Agent shall promptly (and in any event on the same Business Day, or, if such Revolving Loan Borrowing Notice is delivered to the P1 Administrative Agent later than 1:00 p.m., New York City time, on the following Business Day) advise each Revolving Lender that has a Revolving Loan Commitment of any Revolving Loan Borrowing Notice delivered pursuant to this Section 2.7, together with each such Revolving Lender's share of the requested Revolving Loan Borrowing (based on such Revolving Lender's Revolving Loan Commitment Percentage).
- (f) If no election as to whether the requested Revolving Loan Borrowing is of SOFR Loans or Base Rate Loans, then the requested Revolving Loan Borrowing shall be Base Rate Loans.

2.8. Borrowing of Revolving Loans.

Subject to Section 2.6 and Section 2.7, on the proposed date of each Revolving Loan Borrowing, each Revolving Lender shall make a Revolving Loan in the amount of its Revolving Loan Commitment Percentage of such Revolving Loan Borrowing by wire transfer of immediately available funds to the P1 Administrative Agent, not later than 1:00 p.m., New York City time, and the P1 Administrative Agent shall transfer and deposit the amounts so received as set forth in Section 2.6(d); provided, that if a Revolving Loan Borrowing does not occur on the proposed Borrowing Date because any condition precedent to such requested Revolving Loan Borrowing herein specified has

not been met, the P1 Administrative Agent shall return the amounts so received to each Revolving Lender without interest as soon as possible.

2.9. Termination or Reduction of Revolving Loan Commitments.

- (a) All Revolving Loan Commitments, if any, shall be automatically and permanently terminated on the last day of the Revolving Loan Availability Period.
- (b) Subject to Section 2.9(c), the Borrower may, upon at least three Business Days' notice to the P1 Administrative Agent (which shall promptly notify the Revolving LC Issuing Bank and each of the Revolving Lenders), terminate in whole or reduce ratably in part such portions of the Revolving Loan Commitments; provided, that any such partial reduction shall be in the aggregate amount of \$1,000,000 or an integral multiple of \$500,000 in excess thereof; provided, further, that a notice of termination or reduction may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the P1 Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.
- (c) The Revolving Loan Commitments may not be terminated or reduced if, after giving effect to any concurrent prepayment of the Revolving Loans, the total Revolving LC Exposure would exceed the unfunded Revolving Loan Commitment.
- (d) All Revolving Loan Commitments, if any, shall be terminated upon the occurrence of an Event of Default if required pursuant to Section 12.1 or Section 12.2 in accordance with the terms thereof.
- (e) Any termination or reduction of the Revolving Loan Commitments pursuant to this Section 2.9 shall be permanent. Each reduction of the Revolving Loan Commitments shall be made ratably among the Revolving Lenders in accordance with their Revolving Loan Commitment Percentage.

2.10. Borrowings of Senior Loans

- (a) Subject to Section 5.4, each Senior Lender may (without relieving the Borrower of its obligation to repay a Senior Loan in accordance with the terms of this Agreement and the Senior Loan Notes) at its option fulfill its Senior Loan Commitments with respect to any such Senior Loan by causing any domestic or foreign branch or Affiliate of such Senior Lender to make such Senior Loan.
- (b) Unless the P1 Administrative Agent has been notified in writing by any Senior Lender prior to a proposed Borrowing Date that such Senior Lender will not make available to the P1 Administrative Agent its portion of the Senior Loan Borrowing proposed to be made on such date, the P1 Administrative Agent may assume that such Senior Lender has made such amounts available to the P1 Administrative Agent on such date and the P1 Administrative Agent in its sole discretion may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the P1 Administrative Agent by such Senior Lender and the P1 Administrative Agent has made such amount available to the Borrower, the P1 Administrative Agent shall

be entitled to recover on demand from such Senior Lender such corresponding amount *plus* interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the P1 Administrative Agent to the Borrower to the date such corresponding amount is recovered by the P1 Administrative Agent at an interest rate *per annum* equal to the Federal Funds Effective Rate. If such Senior Lender pays such corresponding amount (together with such interest), then such corresponding amount so paid shall constitute such Senior Lender's Senior Loan included in such Senior Loan Borrowing. If such Senior Lender does not pay such corresponding amount forthwith upon the P1 Administrative Agent's demand, the P1 Administrative Agent shall promptly notify the Borrower and the Borrower shall promptly repay such corresponding amount to the P1 Administrative Agent *plus* interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the P1 Administrative Agent to the Borrower to the date such corresponding amount is recovered by the P1 Administrative Agent at an interest rate *per annum* equal to the Base Rate *plus* the Applicable Margin. If the P1 Administrative Agent receives payment of the corresponding amount from each of the Borrower and such Senior Lender, the P1 Administrative Agent shall promptly remit to the Borrower such corresponding amount. If the P1 Administrative Agent receives payment of interest on such corresponding amount from each of the Borrower and such Senior Lender for an overlapping period, the P1 Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. Nothing herein shall be deemed to relieve any Senior Lender from its obligation to fulfill its Senior Loan Commitments hereunder and any payment by the Borrower pursuant to this Section 2.10(b) shall be without prejudice to any claim the Borrower may have against a Senior Lender that shall have failed to make such payment to the P1 Administrative Agent. The failure of any Senior Lender to make available to the P1 Administrative Agent its portion of the Senior Loan Borrowing shall not relieve any other Senior Lender of its obligations, if any, hereunder to make available to the P1 Administrative Agent its portion of the Senior Loan Borrowing on the date of such Senior Loan Borrowing, but no Senior Lender shall be responsible for the failure of any other Senior Lender to make available to the P1 Administrative Agent such other Senior Lender's portion of the Senior Loan Borrowing on the date of any Senior Loan Borrowing. A notice of the P1 Administrative Agent to any Senior Lender or the Borrower with respect to any amounts owing under this Section 2.10(b) shall be conclusive, absent manifest error.

- (c) Each of the Senior Lenders shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Senior Lender resulting from each Senior Loan made by such Senior Lender, including the amounts of principal and interest payable and paid to such Senior Lender from time to time hereunder.
- (d) The P1 Administrative Agent shall maintain at the P1 Administrative Agent's office (i) a copy of any Lender Assignment Agreement or Affiliated Lender Assignment Agreement delivered to it pursuant to Section 14.4 and (ii) a register for the recordation of the names and addresses of the Senior Lenders, and all the Senior Loan Commitments of, and principal amount of and interest on the Senior Loans owing and paid to, each Senior Lender pursuant to the terms hereof from time to time and of amounts received by the P1 Administrative Agent from the

Borrower and whether such amounts constitute principal, interest, fees, or other amounts and each Senior Lender's share thereof (the "**Register**"). The Register shall be available for inspection by the Borrower, any Senior Lender, and the Revolving LC Issuing Bank at any reasonable time and from time to time upon reasonable prior notice.

- (e) The entries made by the P1 Administrative Agent in the Register or the accounts maintained by any Senior Lender shall be conclusive and binding evidence, absent manifest error, of the existence and amounts of the obligations recorded therein; provided, that the failure of any Senior Lender or the P1 Administrative Agent to maintain such Register or accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Senior Loans in accordance with the terms of this Agreement. In the event of any conflict between the accounts and records maintained by any Senior Lender and the accounts and records of the P1 Administrative Agent in respect of such matters, the accounts and records of the P1 Administrative Agent shall control in the absence of manifest error.
- (f) The Borrower agrees that in addition to such accounts or records described in Section 2.10(d) and Section 2.10(e), the Senior Loans made by each Senior Lender shall, upon the request of any Senior Lender, be evidenced by one or more Senior Loan Notes duly executed on behalf of the Borrower and shall be dated the Closing Date (or, if later, the date of any request therefor by a Senior Lender). Each such Senior Loan Note shall have all blanks appropriately filled in, and shall be payable to such Senior Lender and its registered assigns in a principal amount equal to the Senior Loan Commitment of such Senior Lender (it being understood that the principal amount of the Construction/Term Loan Commitment of each Construction/Term Lender shall be allocated amongst its Construction/Term Loan Notes such that the aggregate principal amount of such Construction/Term Loan Notes (and, for the avoidance of any doubt, not any Revolving Loan Note) equals such Construction/Term Lender's Construction/Term Loan Commitment); provided, that each Senior Lender may attach schedules to its respective Senior Loan Notes and endorse thereon the date, amount, and maturity of its respective Senior Loans and payments with respect thereto.

2.11. Extensions of Construction/Term Loans

- (a) The Borrower may at any time and from time to time after the Closing Date request that all or a portion of the Construction/Term Loans outstanding at the time of such request (any such Construction/Term Loans, "**Existing Construction/Term Loans**") be converted to extend the scheduled final maturity date of any payment of principal with respect to all or a portion of any principal amount of such Construction/Term Loans (any such Construction/Term Loans which have been so converted, "**Extended Construction/Term Loans**") and to provide for other terms consistent with this Section 2.11. Prior to entering into any Extension Amendment (as defined below) with respect to any Extended Construction/Term Loans, the Borrower shall provide written notice to the P1 Intercreditor Agent and the P1 Administrative Agent (who shall provide a copy of such notice to each of the Construction/Term Lenders of the Existing Construction/Term Loans and which such request shall be offered equally to all such Construction/Term Lenders) (an "**Construction/Term Loan Extension Request**") setting forth the proposed terms of the Extended Construction/Term

Loans to be established, which terms shall be identical to the Existing Construction/Term Loans, except that (i) the Extended Construction/Term Loans may constitute a separate class of Construction/Term Loans than the Existing Construction/Term Loans and may have distinct voting rights with respect to such class, (ii) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments of all or a portion of any principal amount of such Extended Construction/Term Loans may be delayed to later dates than the scheduled amortization of principal of the Existing Construction/Term Loans (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in Section 4.1 with respect to the Existing Construction/Term Loans from which such Extended Construction/Term Loans were extended, in each case as more particularly set forth in Section 2.11(c) below) (provided, that, for the avoidance of doubt, the weighted average life to maturity of such Extended Construction/Term Loans shall be no shorter than the weighted average life to maturity of the Existing Construction/Term Loans), (iii) (A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts, and premiums with respect to the Extended Construction/Term Loans may be different than those for the Existing Construction/Term Loans and/or (B) additional fees and/or premiums may be payable to the Construction/Term Lenders providing such Extended Construction/Term Loans in addition to or in lieu of any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment, and (iv) (A) the Extended Construction/Term Loans may have call protection and prepayment premiums related to optional prepayment terms as may be agreed between the Borrower and the Extending Construction/Term Lenders thereof and (B) the Extended Construction/Term Loans may participate with the Existing Construction/Term Loans on a *pro rata* basis or a less than *pro rata* basis (but not greater than *apro rata* basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as may be agreed between the Borrower and the Extending Construction/Term Lenders thereof; provided, that the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that all Senior Secured Debt (after taking into account the Construction/Term Loans converted to extend the related scheduled final maturity date in accordance with this clause (a)) outstanding at such time is capable of amortization such that the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the expiration of the term of the Notional Amortization Period shall not be less than 1.45:1.00. No Construction/Term Lender shall have any obligation to agree to have any of its Construction/Term Loans converted into Extended Construction/Term Loans pursuant to any Construction/Term Loan Extension Request and no such refusal shall in and of itself entitle the Borrower to exercise rights under Section 5.4 with respect to such refusing Construction/Term Lender.

- (b) The Borrower shall provide the applicable Construction/Term Loan Extension Request at least thirty days (or such shorter period as the P1 Administrative Agent may determine in its sole discretion) prior to the date on which Construction/Term Lenders are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the P1 Administrative Agent, in each case acting reasonably, to accomplish the purpose of this Section 2.11. Any Construction/Term Lender (an “**Extending Construction/Term Lender**”)

wishing to have all or a portion of its Existing Construction/Term Loans subject to such Construction/Term Loan Extension Request converted into Extended Construction/Term Loans shall notify the P1 Administrative Agent (an **"Extension Election"**) on or prior to the date specified in such Construction/Term Loan Extension Request of the amount of its Existing Construction/Term Loans subject to such Construction/Term Loan Extension Request that it has elected to convert into Extended Construction/Term Loans (subject to any minimum denomination requirements imposed by the P1 Administrative Agent). In the event that the aggregate amount of the Construction/Term Loans subject to Extension Elections exceeds the amount of Extended Construction/Term Loans requested pursuant to the Construction/Term Loan Extension Request, Existing Construction/Term Loans shall be converted to Extended Construction/Term Loans on a *pro rata* basis based on the amount of Existing Construction/Term Loans included in each such Extension Election (subject to rounding).

- (c) Extended Construction/Term Loans shall be established pursuant to an amendment (an **"Extension Amendment"**) to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.11(c) and notwithstanding anything to the contrary set forth in Section 14.1, shall not require the consent of any Senior Lender other than the Extending Construction/Term Lenders with respect to the Extended Construction/Term Loans established thereby) executed by the Borrower, the P1 Administrative Agent and the Extending Construction/Term Lenders. In addition to any terms and changes required or permitted by this Section 2.11 above, each Extension Amendment shall amend the scheduled amortization payments pursuant to Section 4.1 with respect to the Existing Construction/Term Loans to reduce each scheduled repayment amount for the Existing Construction/Term Loans in the same proportion as the amount of Existing Construction/Term Loans is to be converted pursuant to such Extension Amendment (it being understood that the amount of any repayment amount payable with respect to any individual Existing Construction/Term Loan that is not an Extended Construction/Term Loan shall not be reduced as a result thereof). It is understood and agreed that each Senior Lender hereunder has consented, and shall at the effective time thereof be deemed to consent, to each amendment to this Agreement and the other P1 Financing Documents authorized by this Section 2.11 and the arrangements described above in connection therewith.
- (d) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Construction/Term Loans are converted to extend the related scheduled final maturity date in accordance with clause (a) above, the aggregate principal amount of such Existing Construction/Term Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Construction/Term Loans so converted by such Construction/Term Lender on such date.
- (e) No exchange or conversion of Construction/Term Loans or Construction/Term Loan Commitments pursuant to any Extension Amendment in accordance with this Section 2.11 shall (i) be made at any time an Event of Default shall have occurred and be continuing and (ii) constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement or the other P1 Financing Documents.

3. LETTERS OF CREDIT

3.1. Revolving LCs

- (a) Subject to the terms and conditions set forth herein, the Borrower may (but is not required to) deliver to the Revolving LC Issuing Bank a Request for Issuance of a Revolving LC. Upon receipt of such Request for Issuance and subject to the satisfaction of the applicable conditions precedent in Section 7.1 and, with respect to each such issuance, extension, modification, or amendment, Section 7.3 and Section 7.4, the Revolving LC Issuing Bank shall issue, extend, modify, or amend a Revolving LC in an amount not to exceed the amount such that after giving effect to such issuance, extension, modification, or amendment, (i) the aggregate of the Revolving LC Exposure and the principal amount of all Revolving Loans outstanding does not exceed the Aggregate Revolving Loan Commitment and (ii) the aggregate of each Revolving Lender's Revolving LC Exposure and the principal amount of such Revolving Lender's Revolving Loans outstanding at such time does not exceed such Revolving Lender's Revolving Loan Commitment. Any Revolving LC shall expire no later than the end of the Revolving Loan Availability Period.
- (b) Subject to satisfaction of the applicable conditions set forth in Section 3.1(a), the Revolving LCs shall be issued (or the stated maturity thereof extended or terms thereof modified or amended) on not less than three Business Days' prior written notice thereof to the P1 Administrative Agent and the Revolving LC Issuing Bank. Such notice shall be substantially in the form attached as Exhibit C or otherwise reasonably satisfactory to the Revolving LC Issuing Bank (each, a "**Request for Issuance**"). Each Request for Issuance shall include (i) the date (which shall be a Business Day, but in no event later than the date that occurs five Business Days prior to the end of the applicable **Revolving Loan** Availability Period) of issuance of the Revolving LCs (or the date of effectiveness of such extension, modification or amendment), (ii) the stated expiry date thereof, which shall be no later than the earlier of (A) the date that is twelve months after the date of the issuance of such Revolving LC and (B) the date that is five Business Days prior to the end of the applicable **Revolving Loan** Availability Period, except, in the case of this clause (B), to the extent the Revolving LC Issuing Bank has so agreed in its sole discretion and the Revolving LC is cash collateralized or backstopped in a manner acceptable to the applicable Revolving LC Issuing Bank in its sole discretion, (iii) the proposed stated amount of the Revolving LC, and (iv) the beneficiary of the Revolving LC. Not later than 1:00 p.m. New York City time on the proposed date of issuance (or effectiveness) specified in such Request for Issuance, and upon fulfillment of the applicable conditions precedent and the other requirements set forth herein, the Revolving LC Issuing Bank shall issue (or extend, amend, or modify) the Revolving LCs and provide notice thereof to the P1 Administrative Agent, which shall promptly furnish notice thereof to the Senior Lenders.
- (c) Each Revolving Lender severally agrees with the Revolving LC Issuing Bank to participate in the issuance (or extension, modification or amendment) of the each Revolving LC and each drawing of the Revolving LC Available Amounts thereunder, in the manner and the amount provided in Section 3.2, and the issuance (or extension, modification, or amendment) of the each Revolving LC

shall be deemed to be a confirmation by the Revolving LC Issuing Bank and such Revolving Lenders of such participation in such amount.

- (d) In addition to the date of issuance, stated expiry date, stated amount, and beneficiary specified in the applicable Request for Issuance, the Revolving LCs shall have the following additional terms and conditions:
 - (i) payable in immediately available funds in Dollars on a Business Day;
 - (ii) allow for multiple drawings and partial drawings;
 - (iii) if requested by the Borrower, allow the beneficiary to draw the full available amount thereof if either (A) the Revolving LC Issuing Bank ceases to be an Acceptable Bank or (B) such Revolving LC is not extended by the Revolving LC Issuing Bank at least thirty days prior to then-scheduled expiration date; and
 - (iv) if requested by the Borrower, provide for the automatic extensions of the expiry date thereof unless the Revolving LC Issuing Bank gives notice in accordance with the applicable Revolving LC that such expiry date shall not be extended; provided, that if any Revolving LC would be outstanding on the date that is five Business Days prior to the end of the applicable **Revolving Loan** Availability Period, the Revolving LC Issuing Bank shall give such non-extension notice.
- (e) In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Revolving LC Issuing Bank relating to any Revolving LC, the terms and conditions of this Agreement shall control.

3.2. Reimbursement to Revolving LC Issuing Bank

- (a) The Revolving LC Issuing Bank shall give the P1 Administrative Agent, the P1 Collateral Agent, the Borrower and each of the Revolving Lenders prompt notice of any payment made by the Revolving LC Issuing Bank in accordance with the terms of any Revolving LC issued by the Revolving LC Issuing Bank (a “**Revolving LC Payment Notice**”) no later than 10:00 a.m., New York City time, on the Business Day immediately succeeding the date of such payment by the Revolving LC Issuing Bank.
- (b) Upon delivery to the Borrower of a Revolving LC Payment Notice on or before 10:00 a.m., New York City time, on the Business Day immediately succeeding the date of such payment by the Revolving LC Issuing Bank, unless the Borrower provides written notice to the Revolving LC Issuing Bank and the P1 Administrative Agent electing to have the reimbursement obligation converted into a Revolving LC Loan in accordance with Section 3.2(c) and Section 3.2(f), the Borrower shall, on or before 1:00 p.m., New York City time, on such Business Day, reimburse the Revolving LC Issuing Bank for such payment (a “**Revolving LC Reimbursement Payment**”) by paying to the P1 Administrative Agent, for the account of the Revolving LC Issuing Bank, an amount equal to the payment made by the Revolving LC Issuing Bank *plus* interest on such amount at a rate

per annum equal to the Base Rate *plus* the Applicable Margin; provided, that, if the Revolving LC Issuing Bank delivers a Revolving LC Payment Notice to the Borrower after 10:00 a.m., New York City time, on the Business Day immediately succeeding the date of payment by the Revolving LC Issuing Bank, the Borrower shall make the Revolving LC Reimbursement Payment on or before 1:00 p.m., New York City time, on the next succeeding Business Day. The Revolving LC Issuing Bank's failure to provide a Revolving LC Payment Notice shall not relieve the Borrower of its obligation to reimburse the Revolving LC Issuing Bank for any payment it makes under any Revolving LC.

- (c) If the Borrower fails to make the Revolving LC Reimbursement Payment as required under Section 3.2(b) or provides written notice to the Revolving LC Issuing Bank and the P1 Administrative Agent electing to have the reimbursement obligation converted into a Revolving LC Loan, such reimbursement obligation shall automatically convert to a Revolving LC Loan and the P1 Administrative Agent shall promptly notify each of the Revolving Lenders of the amount of its share of the payment made under such Revolving LC Loan, which shall be such Revolving Lender's Revolving Loan Commitment Percentage of such Revolving LC Loan (the **"Revolving LC Lender Payment Notice"**). Subject to Section 3.1(c), each Revolving Lender hereby severally agrees to pay the amount specified in the Revolving LC Lender Payment Notice in immediately available funds to the P1 Administrative Agent for the account of the Revolving LC Issuing Bank with respect to the relevant Revolving LC *plus* interest on such amount at a rate *per annum* equal to the Federal Funds Effective Rate from the date of such payment by the Revolving LC Issuing Bank to the date of payment to the Revolving LC Issuing Bank by such Revolving Lender. Each Revolving Lender shall make such payment by not later than 4:00 p.m., New York City time, on the date it received the Revolving LC Lender Payment Notice (if such notice is received at or prior to 1:00 p.m., New York City time) and before 1:00 p.m., New York City time, on the next succeeding Business Day following such receipt (if such notice is received after 1:00 p.m., New York City time). Each Revolving Lender shall indemnify and hold harmless the Revolving LC Issuing Bank from and against any and all losses, liabilities (including liabilities for penalties), actions, suits, judgments, demands, costs, and expenses (including reasonable attorneys' fees and expenses) resulting from any failure on the part of such Revolving Lender to provide, or from any delay in providing, the P1 Administrative Agent for the account of the Revolving LC Issuing Bank with its Revolving Loan Commitment Percentage of the amount paid under the Revolving LC but no such Revolving Lender shall be so liable for any such failure on the part of or caused by any other Revolving Lender or the willful misconduct or gross negligence, as determined by a court of competent jurisdiction by a final and non-appealable order, of the P1 Administrative Agent. Each Revolving Lender's obligation to make each such payment to the P1 Administrative Agent for the account of the Revolving LC Issuing Bank in the case of payments made in respect of a Revolving LC shall be several and not joint and shall not be affected by (A) the occurrence or continuance of any Event of Default, (B) the failure of any other Revolving Lender to make any payment under this Section 3.2, or (C) the date of the drawing under the applicable Revolving LC issued by the Revolving LC Issuing Bank; provided, that such drawing occurs prior to the earlier of (x) the Credit Agreement Maturity Date or (y) the termination date of the applicable Revolving LC. Each Revolving Lender further

agrees that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

- (d) The P1 Administrative Agent shall pay to the Revolving LC Issuing Bank in immediately available funds the amounts paid in respect of a Revolving LC pursuant to Section 3.2(b) and Section 3.2(c) before the close of business on the day such payment is received; provided, that any amount received by the P1 Administrative Agent that is due and owing to the Revolving LC Issuing Bank and remains unpaid to the Revolving LC Issuing Bank on the date of receipt shall be paid on the next succeeding Business Day with interest payable at the Federal Funds Effective Rate.
- (e) For so long as any Revolving Lender is a Defaulting Lender under clause (a) of the definition thereof, the Revolving LC Issuing Bank shall be deemed, for purposes of Section 4.15 and Article 11, to be a Revolving Lender hereunder in substitution of such Defaulting Lender and shall be owed a loan in an amount equal to the outstanding principal amount due and payable by such Defaulting Lender to the P1 Administrative Agent for the account of the Revolving LC Issuing Bank in respect of such Revolving LC pursuant to Section 3.2(c) above.
- (f) Notwithstanding anything else to the contrary contained herein, the failure of any Revolving Lender to make any required payment in response to any Revolving LC Lender Payment Notice in respect of a Revolving LC shall not increase the total aggregate amount payable by the Borrower with respect to the payment described in the related Revolving LC Lender Payment Notice in respect of a Revolving LC above the total aggregate amount that would have been payable by the Borrower at the applicable rate for Construction/Term Loans if such Defaulting Lender would have funded its payments to such P1 Administrative Agent in a timely manner in response to such Revolving LC Lender Payment Notice in respect of a Revolving LC.
- (g) Each payment made by the Revolving LC Issuing Bank in respect of a Revolving LC that is not reimbursed by the Borrower or that is converted into a Revolving LC Loan by notice from the Borrower pursuant to Section 3.2(c) above shall constitute a Revolving LC Loan deemed made by the Revolving LC Issuing Bank in its capacity as a Revolving Lender. Revolving LC Loans that are converted to ~~Daily Compounded~~ SOFR Senior Loans in respect of Revolving LCs with respect to a specific Revolving LC Available Amount shall constitute a single ~~Daily Compounded~~ SOFR Senior Loan for the purposes of Section 4.4(b) hereunder. Each Revolving LC Loan initially shall be a Base Rate Loan.

3.3. Reimbursement Obligations

- (a) The failure of any Revolving Lender to make any payment to the account of the Revolving LC Issuing Bank in accordance with Section 3.2(c) shall not relieve any other Revolving Lender of its obligation to make payment, but no Revolving Lender shall be responsible for the failure of any other Revolving Lender.
- (b) The payment obligations of each Revolving Lender under Section 3.2(c) and of the Borrower under this Agreement in respect of any payment under any Revolving LC and any Revolving Loan shall be unconditional and irrevocable

and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following circumstances:

- (i) any lack of validity or enforceability of any P1 Financing Document or any other agreement or instrument relating thereto or to such Revolving LC;
- (ii) any amendment or waiver of, or any consent to departure from, all or any of the P1 Financing Documents;
- (iii) the existence of any claim, set-off, defense, or other right which the Borrower may have at any time against any beneficiary, or any transferee, of a Revolving LC (or any Persons for whom any such beneficiary or any such transferee may be acting), the Revolving LC Issuing Bank, or any other Person, whether in connection with this Agreement, the transactions contemplated herein or by a Revolving LC, or any unrelated transaction;
- (iv) any statement or any other document presented under a Revolving LC proving to be forged, fraudulent, invalid, or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (v) payment in good faith by the Revolving LC Issuing Bank under a Revolving LC issued by the Revolving LC Issuing Bank against presentation of a draft or certificate which does not comply with the terms of such Revolving LC; or
- (vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

3.4. Liability of Revolving LC Issuing Bank and the Senior Lenders

The Borrower assumes all risks of the acts and omissions of any beneficiary or transferee of a Revolving LC, and neither the P1 Administrative Agent, the Revolving LC Issuing Bank, the Senior Lenders nor any of their respective Related Parties shall be liable or responsible for (a) the use that may be made of such Revolving LC or any acts or omissions of any beneficiary or transferee thereof in connection therewith, (b) the validity, sufficiency, or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent, or forged, (c) payment by the Revolving LC Issuing Bank against presentation of documents that do not comply with the terms of such Revolving LC, including failure of any documents to bear any reference or adequate reference to such Revolving LC, or (d) any other circumstances whatsoever in making or failing to make payment under such Revolving LC; provided, that with respect to the liability of the Revolving LC Issuing Bank in each such case, payment by the Revolving LC Issuing Bank shall not have constituted gross negligence or willful misconduct as determined by a final and Non-Appealable judgment of a court of competent jurisdiction. In furtherance and not in limitation of the foregoing, the Revolving LC Issuing Bank may accept sight drafts and accompanying certificates presented under such Revolving LC issued by the Revolving LC Issuing Bank that appear on their face to be in order, without responsibility for further investigation. Notwithstanding the foregoing, no Senior Lender shall be obligated to indemnify the Borrower for damages caused by the Revolving LC Issuing Bank's willful misconduct or gross negligence, and the obligation of the Borrower to reimburse the

Senior Lenders hereunder shall be absolute and unconditional, notwithstanding the gross negligence or willful misconduct of the Revolving LC Issuing Bank.

3.5. Disbursement Procedures

The Revolving LC Issuing Bank for any applicable Revolving LC shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for an applicable Revolving LC Disbursement under such Revolving LC. The Revolving LC Issuing Bank shall promptly after such examination notify the P1 Administrative Agent and the Borrower by telephone (confirmed by electronic mail) of such demand for such Revolving LC Disbursement and whether the Revolving LC Issuing Bank has made or will make such Revolving LC Disbursement thereunder and the date such Revolving LC Disbursement shall be (or was) made; provided, that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Revolving LC Issuing Bank with respect to any such Revolving LC Disbursement.

3.6. Replacement of Revolving LC Issuing Bank

The Revolving LC Issuing Bank may be replaced at any time by written agreement between the Borrower, the P1 Administrative Agent and such replacement Revolving LC Issuing Bank; provided, that the replacement Revolving LC Issuing Bank (a) is a Senior Lender, (b) is an Acceptable Bank, and (c) has agreed in writing to accept such designation as the Revolving LC Issuing Bank and to be bound by all of the terms contained in this Agreement and the other P1 Financing Documents binding on the Revolving LC Issuing Bank, as applicable, in such capacity. The P1 Administrative Agent shall notify the Senior Lenders of any such replacement of the Revolving LC Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees and expenses accrued for account of the replaced Revolving LC Issuing Bank pursuant to Section 4.13 and Section 14.6. From and after the effective date of any such replacement, (i) the successor Revolving LC Issuing Bank shall have all the rights and obligations of the replaced Revolving LC Issuing Bank under this Agreement with respect to Revolving LCs to be issued by it thereafter and (ii) references herein to the term "Revolving LC Issuing Bank" shall be deemed to refer to such successor. After the replacement of the Revolving LC Issuing Bank hereunder, the replaced Revolving LC Issuing Bank shall remain a Party hereto and shall continue to have all the rights and obligations of the Revolving LC Issuing Bank under this Agreement with respect to Revolving LCs issued by it prior to such replacement, but shall not be required to issue additional (or extend, amend or modify existing) Revolving LCs.

3.7. Cash Collateralization

In the event that (a) the maturity of the Senior Loans has been accelerated upon the occurrence of an Event of Default pursuant to Section 12.1 or Section 12.2, (b) any Revolving LCs are required to be cash collateralized pursuant to Section 4.10, or (c) in the event any Revolving Lender becomes a Defaulting Lender (unless all of the applicable Defaulting Lender's participations in such Revolving LCs are reallocated to other Revolving Lenders pursuant to Section 3.8), the Borrower shall immediately (or in the case of clause (c), within five Business Days) deposit into the LC Cash Collateral Account an amount in cash equal to 102% of the aggregate amount of all Revolving LC Exposures as of such date (or in the case any Revolving Lender becomes a Defaulting Lender, the Revolving LC Exposure of such Defaulting Lender) *plus* any accrued and unpaid interest thereon; provided, that the obligation to deposit such cash collateral shall

become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 12.1. Any deposit made pursuant to this Section 3.7 shall be held by the P1 Collateral Agent as collateral for the applicable Revolving LC Exposure and Fees of the Revolving LC Issuing Bank under this Agreement and shall in the case of a Revolving LC Disbursement in respect of any Revolving LC be applied to the payment of the Borrower's reimbursement obligations in respect of such Revolving LC Disbursement and any associated Fees owed to the Revolving LC Issuing Bank; provided, that any failure or inability of the P1 Collateral Agent or P1 Administrative Agent for any reason to apply such amounts shall not in any manner relieve any Revolving Lender of its obligations under Section 3.2 and Section 3.3. For this purpose, the Borrower hereby grants a security interest to the P1 Collateral Agent for the benefit of the Revolving LC Issuing Bank and the Revolving Lenders in such collateral account and any financial assets (as defined in the UCC) or other property held therein. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the acceleration of the maturity of the Senior Loans upon the occurrence of an Event of Default (or in the circumstances contemplated by Section 4.10(c)(iii)), upon the expiration or termination of any Revolving LC, the amount (to the extent not applied as aforesaid) by which the cash collateral exceeds the aggregate amount of all Revolving LC Exposure as of such date *plus* any accrued and unpaid interest, Fees and expenses to the Revolving LC Issuing Bank thereon shall be (i) *first*, applied to repay any Obligations due and payable as of such date and (ii) *second*, returned to the Borrower.

3.8. Reallocation of Participations in Revolving LCs

All or any part of any Defaulting Lender's participation in any Revolving LC shall be reallocated among the Revolving Lenders that are not Defaulting Lenders in accordance with their respective Revolving Loan Commitment Percentages (calculated without regard to such Defaulting Lender's Revolving Loan Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving LC Exposure of any Revolving Lender that is not a Defaulting Lender to exceed such Revolving Lender's undisbursed Revolving Loan Commitment. Subject to Section 14.26, no reallocation hereunder shall constitute a waiver or release against a Defaulting Lender arising from that Revolving Lender having become a Defaulting Lender, including any claim of a Revolving Lender that is not a Defaulting Lender as a result of such Revolving Lender's increased Revolving LC Exposure following such reallocation.

4. REPAYMENTS, PREPAYMENTS, INTEREST AND FEES

4.1. Repayment of Construction/Term Loan Borrowings

- (a) The Borrower unconditionally and irrevocably promises to pay to the P1 Administrative Agent for the ratable account of each Construction/Term Lender the aggregate outstanding principal amount of the Construction/Term Loans on each Principal Payment Date, in accordance with the Amortization Schedule.
- (b) Notwithstanding anything to the contrary set forth in Section 4.1(a), the final principal repayment installment on the Credit Agreement Maturity Date shall in any event be in an amount equal to the aggregate principal amount of all Construction/Term Loans outstanding on such date.

4.2. Repayment of Revolving Loan Borrowings

- (a) From and after the Term Conversion Date, the Borrower shall reduce the aggregate outstanding principal amount of all Revolving Loans (other than Revolving LC Loans) to \$0 for a period of five consecutive Business Days at least once every 365 days; provided, that the Borrower shall have sole responsibility for determining when during any 365 day period it elects to satisfy such requirement and the P1 Administrative Agent shall have no duty to monitor compliance with this Section 4.2(a); provided, further, that the foregoing shall not limit the utilization by the Borrower of Permitted Indebtedness (other than the Construction/Term Loans) for such purposes to the extent the terms and conditions of such Permitted Indebtedness permit such utilization.
- (b) Notwithstanding anything to the contrary set forth in Section 4.2(a), the Borrower unconditionally and irrevocably promises to pay to the P1 Administrative Agent for the ratable account of each Revolving Lender, on the Credit Agreement Maturity Date, an amount equal to the aggregate principal amount of all Revolving Loans *plus* any unreimbursed Revolving LC Disbursements, outstanding on such date.

4.3. Interest Payment Dates

- (a) Interest accrued on each Senior Loan shall be payable, without duplication, on the following dates (each, an **"Interest Payment Date"**):
 - (i) with respect to any repayment or prepayment of any Base Rate Loans or of all of the aggregate principal on any SOFR Loans, on the date of each such repayment or prepayment;
 - (ii) with respect to any partial repayment or prepayment of principal on any SOFR Loans, on the next Monthly Transfer Date;
 - (iii) on the Credit Agreement Maturity Date;
 - (iv) with respect to SOFR Loans, (x) on each ~~Quarterly Payment Date or (y) at the option of the Borrower with written notice to the P1 Administrative Agent, on a~~ Monthly Transfer Date or ~~(z-y)~~ if applicable, any date on which such SOFR Loan is converted to a Base Rate Loan; and
 - (v) with respect to Base Rate Loans, on each Quarterly Payment Date or, if applicable, any date on which such Base Rate Loan is converted to a SOFR Loan.
- (b) Interest accrued on the Senior Loans or other Obligations after the date such amount is due and payable ~~(whether on the Credit Agreement Maturity Date, any Monthly Transfer Date, any Quarterly Payment Date, any Interest Payment Date~~ **as provided in clause (a)**, upon acceleration or otherwise) shall be payable upon demand.
- (c) Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the occurrence of an event described in Section 12.1.

4.4. Interest Rates

- (a) Pursuant to each properly delivered Borrowing Notice, the SOFR Loans shall accrue interest at a rate *per annum* equal to the sum of Daily Compounded SOFR plus the Applicable Margin for such Senior Loans.
- (b) Notwithstanding anything to the contrary, the Borrower shall have, in the aggregate, no more than five separate SOFR Loans outstanding at any one time.
- (c) Pursuant to each properly delivered Borrowing Notice, each Base Rate Loan shall accrue interest at a rate *per annum* equal to the sum of the Base Rate *plus* the Applicable Margin for such Senior Loans.
- (d) All Base Rate Loans shall bear interest from and including the date such Senior Loan is made (or the day on which SOFR Loans are converted to Base Rate Loans as required under Article 5) to (but excluding) the date such Senior Loan or portion thereof is paid at the interest rate determined as applicable to such Base Rate Loan.
- (e) Daily Compounded SOFR Conforming Changes. In connection with the use or administration of Daily Compounded SOFR, the P1 Administrative Agent will have the right to make Conforming Changes from time to time (in consultation with the Borrower) and, notwithstanding anything to the contrary herein or in any other P1 Financing Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other P1 Financing Document. The P1 Administrative Agent will promptly notify the Borrower and the Senior Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Daily Compounded SOFR.

4.5. Conversion Options

- (a) Elections by Borrower for Senior Loan Borrowings. Subject to Section 2.2 (with respect to Construction/Term Loan Borrowings) and Section 2.7 (with respect to Revolving Loan Borrowings) and Section 4.4(b), Section 5.1, and Section 5.2, the Senior Loans comprising each Senior Loan Borrowing initially shall be of the Type specified in the applicable Borrowing Notice. Thereafter, the Borrower may elect to convert such Senior Loan Borrowing to a Senior Loan Borrowing of a different Type or to continue such Senior Loan Borrowing as a Senior Loan Borrowing of the same Type, all as provided in this Section 4.5; provided that no SOFR Loan may be converted into a Base Rate Loan on any date other than ~~the Quarterly Payment~~ **a Monthly Transfer** Date of such ~~SOFR Loan~~. The Borrower may elect different options with respect to different portions of the affected Senior Loan Borrowing, in which case each such portion shall be allocated ratably among the Senior Lenders holding the Senior Loans comprising such Senior Loan Borrowing, and the Senior Loans comprising each such portion shall be considered a separate Senior Loan Borrowing.
- (b) Notice of Elections. Each such election pursuant to this Section 4.5 shall be made upon the Borrower's irrevocable notice to the P1 Administrative Agent. Each such notice shall be in the form of a written Interest Election Request, appropriately completed and signed by an Authorized Officer of the Borrower, or

may be given by telephone to the P1 Administrative Agent (if promptly confirmed in writing by delivery of such a written Interest Election Request consistent with such telephonic notice) and must be received by the P1 Administrative Agent not later than the time that a Borrowing Notice would be required under Section 2.2 (with respect to Construction/Term Loan Borrowings) and Section 2.7 (with respect to Revolving Loan Borrowings) if the Borrower were requesting a Senior Loan Borrowing of the Type resulting from such election to be made on the effective date of such election.

- (c) Content of Interest Election Requests. Each Interest Election Request pursuant to this Section shall specify the following information in compliance with Section 2.2 (with respect to Construction/Term Loan Borrowings) and Section 2.7 (with respect to Revolving Loan Borrowings):
 - (i) the Senior Loan Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Senior Loan Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Senior Loan Borrowing);
 - (ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day; and
 - (iii) whether the resulting Senior Loan Borrowing is to be comprised of Base Rate Loans or SOFR Loans.
- (d) Notice by P1 Administrative Agent to Senior Lenders. The P1 Administrative Agent shall advise each applicable Senior Lender of the details of an Interest Election Request and such Senior Lender's portion of such resulting Senior Loan Borrowing no less than one Business Day before the effective date of the election made pursuant to such Interest Election Request.
- (e) Failure to Make an Interest Election Request; Events of Default If the Borrower fails to deliver a timely and complete Interest Election Request with respect to a Senior Loan Borrowing comprising SOFR Loans prior to the ~~Interest Payment~~ **Monthly Transfer** Date therefor, then, unless such Senior Loan Borrowing comprising SOFR Loans is repaid as provided herein, the Borrower shall be deemed to have selected that such Senior Loan Borrowing shall automatically be continued as a Senior Loan Borrowing comprising SOFR Loans bearing interest at a rate based upon Daily Compounded SOFR as of such ~~Interest Payment~~ **Monthly Transfer** Date. Notwithstanding any contrary provision hereof, if a Default or Event of Default has occurred and is continuing, then, so long as such Default or Event of Default is continuing no outstanding Senior Loan Borrowing comprised of Base Rate Loans may be converted to a Senior Loan Borrowing comprised of SOFR Loans.

4.6. Post-Maturity Interest Rates; Default Interest Rates

If all or a portion of the principal amount of any Senior Loan is not paid when due (whether on the Credit Agreement Maturity Date, by acceleration or otherwise) or any Obligation under this Agreement (other than principal on the Senior Loans) is not paid

when due (whether on the Credit Agreement Maturity Date, by acceleration or otherwise), such amount shall bear interest at a rate *per annum* equal to the applicable Default Rate from the date of such non-payment until the amount then due is paid in full (after as well as before judgment).

4.7. Interest Rate Determination

The P1 Administrative Agent shall determine the interest rate applicable to the Senior Loans and shall give prompt notice of such determination to the Borrower and the Senior Lenders. In each such case, the P1 Administrative Agent's determination of the applicable interest rate shall be conclusive in the absence of manifest error.

4.8. Computation of Interest and Fees

- (a) All computations of interest for Base Rate Loans when the Base Rate is determined by the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All computations of interest for SOFR Loans, and for Base Rate Loans when the Base Rate is determined by the Federal Funds Effective Rate, shall be made on the basis of a 360-day year and actual days elapsed.
- (b) Interest shall accrue on each Senior Loan (and Revolving LC Disbursement) for the day on which the Senior Loan (or Revolving LC Disbursement) is made, and shall not accrue on a Senior Loan (or Revolving LC Disbursement), or any portion thereof, for the day on which the Senior Loan (or Revolving LC Disbursement) or such portion is paid; provided, that any Senior Loan (or Revolving LC Disbursement) that is repaid on the same day on which it is made shall bear interest for one day.
- (c) All interest hereunder on any Senior Loan other than a Senior Loan computed by reference to Daily Compounded SOFR shall be computed on a daily basis based upon the outstanding principal amount of such Senior Loan as of the applicable date of determination. All interest hereunder on any Senior Loan computed by reference to Daily Compounded SOFR shall be computed as of any applicable date of determination on a daily basis based upon (x) the outstanding principal amount of such Senior Loan as of such date of determination plus (y) the accrued, unpaid interest on such Senior Loan attributable to Daily Compounded SOFR (and not, for the avoidance of doubt, attributable to the Applicable Margin) as of the immediately preceding U.S. Government Securities Business Day. Each determination by the P1 Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

4.9. Optional Prepayment

- (a) The Borrower shall have the right to prepay the Senior Loans (in whole or part) without premium or penalty by providing notice to the P1 Administrative Agent prior to 11:00 a.m., New York City time, on the date that is
 - (i) with respect to any prepayment of SOFR Loans, five U.S. Government Securities Business Days and
 - (ii) with respect to any prepayment of Base Rate Loans, one Business Day, prior to the proposed prepayment date. Any prepayment notice may be revoked; provided, that the Borrower shall be responsible for any additional amounts

required to be paid to any Senior Lender pursuant to Section 5.5 as a result of such revocation.

- (b) Prepayments pursuant to this Section 4.9 may be applied to the prepayment of Construction/Term Loans and/or the Revolving Loans as directed by the Borrower, without applying such proceeds to the prepayment of any other Class of Senior Loan.
- (c) Any partial voluntary prepayment of the Senior Loans under this Section 4.9 shall be in minimum amounts of \$10,000,000.
- (d) All voluntary prepayments under this Section 4.9 shall be made by the Borrower to the P1 Administrative Agent for the account of the Senior Lenders in accordance with Section 4.9(e).
- (e) With respect to each prepayment to be made pursuant to this Section 4.9, on the date specified in the notice of prepayment delivered pursuant to Section 4.9(a), the Borrower shall pay to the P1 Administrative Agent the sum of the following amounts:
 - (i) the principal of, and (other than for partial repayments of Senior Loans) accrued but unpaid interest on, the Senior Loans to be prepaid;
 - (ii) any additional amounts required to be paid under Section 5.5; and
 - (iii) any other Obligations due to the Credit Agreement Senior Secured Parties in connection with any prepayment under the P1 Financing Documents.
- (f) The Borrower (i) shall either (A) concurrently with such prepayment under this Section 4.9, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements required to be terminated in connection with such prepayment in accordance with Section 4.18; or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be required to be payable by the Borrower in respect of the Senior Secured IR Hedge Agreements terminated in connection with such prepayment in accordance with Section 4.18 and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements required to be terminated in connection with such prepayment in accordance with Section 4.18 and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Senior Loans that were subject to such optional prepayment; and (ii) may either (A) concurrently with such prepayment under this Section 4.9, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements that have been and are permitted to be terminated in connection with such prepayment in accordance with Section 4.18; or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be payable in

connection with such prepayment as a result of terminations of the Senior Secured IR Hedge Agreements that are permitted to be made in connection with such prepayment in accordance with Section 4.18 and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements permitted to be terminated in connection with such prepayment in accordance with Section 4.18 and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Senior Loans that were subject to such prepayment.

- (g) Voluntary payments of principal of the Senior Loans will be applied *pro rata* against subsequent scheduled payments, in inverse order of maturity, or in direct order of maturity, at the Borrower's sole discretion.
- (h) Amounts of any Construction/Term Loans prepaid pursuant to this Section 4.9 may not be reborrowed. Amounts of any Revolving Loan prepaid pursuant to this Section 4.9 may, subject to Section 4.2(a), be re-borrowed at any time and from time to time until the expiration of the Revolving Loan Availability Period.

4.10. Mandatory Prepayment

- (a) The Borrower shall be required to prepay the Construction/Term Loans (or, in the case of any prepayments pursuant to (x) clause (i) below to the extent that the Event of Loss for which such Loss Proceeds were received also resulted in an Event of Default or (y) in the case of a sale of all or substantially all of the assets of the Borrower pursuant to clause (ii) below, to prepay the Revolving Loans *pro rata* with the Construction/Term Loans) in accordance with Section 9.8 9.7 (Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action) of the Collateral and Intercreditor Agreement (but subject to Section 4.10(hi)) with the applicable Senior Lenders' ratable share of the Mandatory Prepayment Portion of the following:
 - (i) Loss Proceeds, to the extent that the aggregate amount of such Loss Proceeds previously received by the Borrower over the term of this Agreement and not applied for mandatory prepayment exceeds \$75,000,000 and such Loss Proceeds are not applied to ~~Restore the Project~~ in accordance with ~~Section 3.10 (P1 Insurance Account)~~ 9.2(b) (Loss Proceeds) of the P1 Accounts Collateral and Intercreditor Agreement;
 - (ii) Asset Sale Proceeds, to the extent such Asset Sale Proceeds result from any Asset Sale that is not permitted by Section 9.3;
 - (iii) the net proceeds of any Replacement Debt allocated by the Borrower in accordance with Section 2.4(b) (ii) (Replacement Debt) of the Common Terms Agreement; provided, that, from and after April 1, 2025, such amount in this clause (iii) shall be allocated on a pro rata basis between the outstanding Construction/Term Loans hereunder and the outstanding "Construction/Term Loans" under and as defined in the TCF Credit Agreement and the amount of Construction/Term Loans prepayable hereunder will be reduced accordingly;

- (iv) if the conditions applicable to making a Distribution set forth in Section 9.10(a) have not been satisfied for four consecutive Quarterly Payment Dates, funds on deposit in the P1 Distribution Reserve Account on such fourth Quarterly Payment Date or the date specified in Section 4.11(d), if applicable, (after effecting any transfers therefrom on or prior to such date in accordance with the P1 Accounts Agreement);
 - (v) all Performance Liquidated Damages payments to the Borrower that are in excess of \$75,000,000, to the extent that such Performance Liquidated Damages are not used to (A) make any indemnity payments owed to any Material Project Party pursuant to any Designated Offtake Agreement as a result of the applicable performance shortfall, (B) complete or repair the Project facilities in respect of which Performance Liquidated Damages were paid, or (C) reimburse Voluntary Equity Contributions to the extent such Voluntary Equity Contributions were used to fund any amounts payable by the Borrower and referred to in the foregoing clauses (A) and (B); and
 - (vi) all Termination Payments to the Borrower that are in excess of \$75,000,000, to the extent such Termination Payments are not used to (A) rectify the damages or losses suffered under the relevant Material Project Document resulting from such breach by such Material Project Party or (B) reimburse Voluntary Equity Contributions to the extent such Voluntary Equity Contributions were used to fund any amounts payable by the Borrower and referred to in the foregoing clause (A).
- (b) The Borrower shall, if applicable, make prepayments (if any) of Senior Loans and cancel Senior Loan Commitments as may be required upon the occurrence of an LNG Sales Mandatory Prepayment Event in accordance with Section 8.5(b e).
- (c) With respect to each prepayment of the Senior Loans to be made pursuant to this Section 4.10, on the date required pursuant to Section 9.8 9.7 (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) of the Collateral and Intercreditor Agreement, the Borrower shall pay to the P1 Administrative Agent the amount determined in accordance therewith, which shall be applied as follows:
- (i) *first*, on a *pro rata* basis to the payment to the Senior Lenders to be prepaid pursuant to Section 4.10(a) of (A) accrued but unpaid interest and fees on the Senior Loans to be prepaid and (B) any additional amounts required to be paid under Section 5.5 in connection with such prepayment;
 - (ii) *second*, on a *pro rata* basis, for the prepayment to the applicable Senior Lenders for the prepayment of principal of the Senior Loans to be prepaid pursuant to Section 4.10(a); and
 - (iii) *third*, if any Revolving Loans are being prepaid or would be prepaid if any Revolving Loans were outstanding, any remainder of the proceeds required to be applied to prepayment in accordance with this Section 4.10, to the cash collateralization of up to 102% of all Revolving LC Exposures of the Revolving Lenders.

- (d) The Borrower (i) shall either (A) concurrently with any mandatory prepayment pursuant to this Section 4.10, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any portion of the Senior Secured IR Hedge Transactions required to be terminated in connection with such prepayment in accordance with ~~Section 9.8~~ 9.7(c) (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) or Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (as applicable) and Section 4.18 or Section 4.19 (as applicable) or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be required to be payable by the Borrower in respect of any portion of the Senior Secured IR Hedge Transactions terminated in connection with such prepayment in accordance with ~~Section 9.8~~ 9.7(c) (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) or Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (as applicable) and Section 4.18 or Section 4.19 (as applicable) and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any portion of the Senior Secured IR Hedge Transactions required to be terminated in connection with such prepayment in accordance with ~~Section 9.8~~ 9.7(c) (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) or Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (as applicable) and Section 4.18 or Section 4.19 (as applicable) and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Senior Loans that were subject to such mandatory prepayment and (ii) may either (A) concurrently with such mandatory prepayment under this Section 4.10, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any portion of the Senior Secured IR Hedge Transactions are permitted to be terminated in connection with such prepayment in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement and Section 4.19 or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be payable in connection with such prepayment as a result of terminations of Senior Secured IR Hedge Transactions that are permitted in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement and Section 4.19 and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Transactions permitted to be terminated in connection with such prepayment in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement and Section 4.19 and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Senior Loans that were subject to such prepayment.

- (e) Mandatory prepayments of the principal of the Construction/Term Loans will be applied (i) in the case of mandatory prepayments pursuant to Section 4.10(a)(iii), Section 4.10(a)(v), **Section 4.10(a)(vi)**, or Section 4.10(b), *pro rata* against all remaining scheduled amortization payments in respect of the applicable Construction/Term Loans, (ii) in the case of all other mandatory prepayments, in inverse order of maturity, and (iii) in the case of mandatory prepayments pursuant to Section 4.10(a)(iii), (A) to outstanding Construction/Term Loans under Tranche A until all such outstanding Construction/Term Loans shall have been prepaid and (B) thereafter to all other outstanding Construction/Term Loans.
- (f) The Borrower shall provide notice (each a “Replacement Debt Prepayment Notice”) to the P1 Administrative Agent of any anticipated mandatory prepayment pursuant to Section 4.10(a)(iii) by no later than 1:00 pm on the second Business Day prior to the date of such anticipated mandatory prepayment, which notice the P1 Administrative Agent shall promptly forward to each Senior Lender on the same day that it is received from the Borrower; provided, that such notice of prepayment by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the P1 Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Each Specified Senior Lender may, by notice to the P1 Administrative Agent in writing or by telephone (confirmed in writing) no later than 5:00 pm one Business Day after receipt of a Replacement Debt Prepayment Notice elect to decline all (but not less than all) of such Replacement Debt with respect to the anticipated mandatory prepayment of its outstanding Construction/Term Loans pursuant to Section 4.10(a)(iii) (such declined prepayment amounts, the “Declined Replacement Debt Proceeds”). The aggregate amount of Declined Replacement Debt Proceeds shall be allocated to the Non-Declining Senior Lenders on a *pro rata* basis in accordance with the aggregate amount of their respective outstanding Construction/Term Loans; provided, that, if the amount of Declined Replacement Debt Proceeds exceeds the aggregate amount of outstanding Construction/Term Loans held by the Non-Declining Senior Lenders (such excess amounts (if any), the “Excess Replacement Debt Proceeds”), the Excess Replacement Debt Proceeds shall be allocated to the Specified Senior Lenders that have declined Replacement Debt on a *pro rata* basis in accordance with the aggregate amount of their respective outstanding Construction/Term Loans.
- (g) Amounts of any Senior Loans prepaid pursuant to this Section 4.10 may not be reborrowed.
- (h) No premium or penalty shall be payable in connection with any prepayment under this Section 4.10.
- (i) Any prepayments pursuant to Section 4.10(a)(iii) shall be applied to the Senior Loans prior to the prepayment of any Replacement Debt, Supplemental Debt, or Working Capital Debt not consisting of Senior Loans.
- (j) In the event that a mandatory prepayment of Senior Secured Debt is triggered pursuant to Section 4.10(b) and the Borrower does not have sufficient cash available pursuant to the P1 Accounts Agreement to make such mandatory

prepayment, the P1 Collateral Agent (at the direction of the P1 Intercreditor Agent) shall draw on each Distribution LC and Distribution Guaranty in-full and deposit the proceeds of such draws into the P1 Debt Prepayment Account.

4.11. Time and Place of Payments

- (a) The Borrower shall make each payment (including any payment of principal of or interest on any Senior Loan or any Fees or other Obligations) hereunder without setoff, deduction or counterclaim not later than 1:00 p.m., New York City time, on the date when due in Dollars and in immediately available funds to the P1 Administrative Agent at the following account: MUFG Bank, Ltd., ABA # 026-009-632, SWIFT ID: BOTKUS33, Account Name: LOAN OPERATIONS DEPARTMENT, Account # 9777-0191, Atten: AGENCY DESK, Ref: Rio Grande, or at such other office or account as may from time to time be specified by the P1 Administrative Agent to the Borrower. Funds received after 1:00 p.m., New York City time shall be deemed to have been received by the P1 Administrative Agent on the next succeeding Business Day for the purpose of calculating interest thereon.
- (b) The P1 Administrative Agent shall promptly remit in immediately available funds to each Credit Agreement Senior Secured Party its share, if any, of any payments received by the P1 Administrative Agent for the account of such Credit Agreement Senior Secured Party; provided, that any fronting fees due and payable pursuant to Section 4.13(e) shall be paid directly by the Borrower to the Revolving LC Issuing Bank pursuant to the Revolving LC Issuing Bank Fee Letter.
- (c) Except as provided herein, whenever any payment (including any payment of interest or principal on any Senior Loan or any Fees or other Obligations) hereunder shall become due, or otherwise would occur, on a day that is not a Business Day, such payment shall be made on the immediately succeeding Business Day, and such increase of time shall in such case be included in the computation of interest or Fees, if applicable unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day.
- (d) Mandatory prepayments in accordance with Section 4.10 (other than Section 4.10(a)(iii)) may be made by the Borrower on the first Quarterly Payment Date (or any Monthly Transfer Date preceding such Quarterly Payment Date) occurring after such prepayment is required to be made pursuant to this Section 4.11 if (i) the relevant prepayment amount is held in a segregated account in which the P1 Collateral Agent (on behalf of the Senior Lenders) has a perfected first-priority security interest (including, in the case of any mandatory prepayment required by Section 4.10(a)(iv), the P1 Distribution Reserve Account) and (ii) no Event of Default has occurred and is continuing.

4.12. Borrowings and Payments Generally

- (a) Unless the P1 Administrative Agent has received notice from the Borrower prior to the date on which any payment is due to the P1 Administrative Agent for the account of the Senior Lenders hereunder that the Borrower will not make such payment, the P1 Administrative Agent may assume that the Borrower has made

such payment on such date in accordance with this Agreement and may, in reliance upon such assumption, distribute to the Senior Lenders the amount due. If the Borrower has not in fact made such payment, then each of the Senior Lenders severally agrees to repay to the P1 Administrative Agent forthwith on demand the amount so distributed to such Senior Lender in immediately available funds with interest thereon, for each day from (and including) the date such amount is distributed to it to (but excluding) the date of payment to the P1 Administrative Agent, at the Federal Funds Effective Rate. A notice of the P1 Administrative Agent to any Senior Lender with respect to any amount owing under this Section 4.12 shall be conclusive, absent manifest error.

- (b) Except as set forth in Section 4.10(c), if at any time insufficient funds are received by and available to the P1 Administrative Agent to pay fully all amounts of principal, Revolving LC Disbursements, interest, fees and other amounts then due hereunder, such funds shall be applied (i) *first*, to pay interest, fees and other amounts (except for the amounts required to be paid pursuant to the following clause (ii)) then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest, fees and such other amounts then due to such parties, and (ii) *second*, to pay principal and unreimbursed Revolving LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed Revolving LC Disbursements then due to such parties.
- (c) Nothing herein shall be deemed to obligate any Senior Lender to obtain funds for any Senior Loan in any particular place or manner or to constitute a representation by any Senior Lender that it has obtained or will obtain funds for any Senior Loan in any particular place or manner.
- (d) The Borrower hereby authorizes each Senior Lender and Revolving LC Issuing Bank, if and to the extent payment owed to such Senior Lender or Revolving LC Issuing Bank is not made when due under this Agreement or under the Senior Loan Notes held by such Senior Lender or Revolving LC Issuing Bank (as applicable), to charge from time to time against any or all of the Borrower's accounts with such Senior Lender or Revolving LC Issuing Bank any amount so due.

4.13. Fees

- (a) From and including the Closing Date and until the end of the Construction/Term Loan Availability Period, the Borrower agrees to pay to the P1 Administrative Agent, for the account of the Construction/Term Lenders, on each Quarterly Payment Date, a commitment fee at a rate *per annum* equal to 30% of the Applicable Margin for SOFR Loans on the average daily amount during the period from and including the last Quarterly Payment Date (or from and including the Closing Date in the case of the first Quarterly Payment Date) to but excluding such Quarterly Payment Date, by which the Aggregate Construction/Term Loan Commitment exceeds the aggregate outstanding principal balance of the Construction/Term Loans.
- (b) From and including the Closing Date and until the end of the Revolving Loan Availability Period, the Borrower agrees to pay to the P1 Administrative Agent, for the account of the Revolving Lenders, on each Quarterly Payment Date, a

commitment fee at a rate *per annum* equal to 30% of the Applicable Margin for SOFR Loans on the average daily amount during the period from and including the last Quarterly Payment Date (or from and including the Closing Date in the case of the first Quarterly Payment Date) to but excluding such Quarterly Payment Date, by which the Revolving Loan Commitment exceeds the sum of (i) the aggregate outstanding principal balance of the Revolving Loans *plus* (ii) the Revolving LC Exposure.

- (c) All Commitment Fees shall be payable in arrears and computed on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be, as pro-rated for any partial period, as applicable. Notwithstanding the foregoing, the Borrower will not be required to pay any Commitment Fee to any Senior Lender with respect to any period in which such Senior Lender was a Defaulting Lender.
- (d) The Borrower agrees to pay to the P1 Administrative Agent for the account of each Revolving Lender, a letter of credit fee on the average daily aggregate amount of such Senior Lender's Revolving LC Exposure, if any, at a rate *per annum* equal to the Applicable Margin for SOFR Loans, payable quarterly in arrears on each Quarterly Payment Date, commencing on the first such date to occur following the date of issuance of the applicable Revolving LC hereunder.
- (e) The Borrower agrees to pay or cause to be paid to the Revolving LC Issuing Bank the fronting fees, in the amounts and at the times agreed to by the Borrower and the Revolving LC Issuing Bank pursuant to the Revolving LC Issuing Bank Fee Letter.
- (f) The Borrower agrees to pay or cause to be paid additional fees in the amounts and at the times from time to time agreed pursuant to each applicable Bank Fee Letter and each applicable Fee Letter.
- (g) All Fees shall be paid on the dates due in immediately available funds. Once paid, none of the Fees shall be refundable under any circumstances.

4.14. Pro Rata Treatment

- (a) Except as otherwise provided in Section 2.1(g), the portion of any Senior Loan Borrowing shall be allocated by the P1 Administrative Agent *pro rata* among the Senior Lenders of such Class (and, in the case of Construction/Term Loans, any Tranche) in accordance with (i) in the case of the Construction/Term Lenders, each Construction/Term Lender's Construction/Term Loan Tranche Percentage and (ii) in the case of the Revolving Lenders, each Revolving Lender's Revolving Loan Commitment Percentage.
- (b) Except as otherwise provided in Article 5, Section 2.4(c), and Section 2.4(e), each reduction of Senior Loan Commitments of any Class (and, in the case of Construction/Term Loans, any Tranche), pursuant to Section 2.4, Section 2.9, or otherwise, shall be allocated by the P1 Administrative Agent *pro rata* among the Senior Lenders of such Class (and, in the case of Construction/Term Loans, any Tranche) in accordance with (i) in the case of the Construction/Term Lenders, each Construction/Term Lender's Construction/Term Loan Commitment

Percentage and (ii) in the case of the Revolving Lenders, each Revolving Lender's Revolving Loan Commitment Percentage.

- (c) Except as otherwise required under Article 5, each payment or prepayment of principal of the Senior Loans shall be allocated by the P1 Administrative Agent *pro rata* among the Senior Lenders in accordance with the respective principal amounts of their outstanding Senior Loans in a particular Class (and, in the case of Construction/Term Loans, any Tranche), and each payment of interest on the Senior Loans in a particular Class (and, in the case of Construction/Term Loans, any Tranche) shall be allocated by the P1 Administrative Agent *pro rata* among the Senior Lenders in accordance with the respective interest amounts outstanding on the Senior Loans in each Class (and, in the case of Construction/Term Loans, any Tranche) held by them. Each payment of the Commitment Fees shall be allocated by the P1 Administrative Agent *pro rata* among the applicable Senior Lenders in accordance with their respective Senior Loan Commitments of a particular Class.

4.15. Sharing of Payments

- (a) If any Senior Lender obtains any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Senior Loan (other than pursuant to the terms of Article 5) in excess of its *pro rata* share of payments then or therewith obtained by all Senior Lenders holding Senior Loans of such Class (and, in the case of Construction/Term Loans, any Tranche) (including the Revolving LC Issuing Bank with unreimbursed Revolving LC Disbursements of such Class outstanding), such Senior Lender shall purchase from the other Senior Lenders (or the Revolving LC Issuing Bank) (for cash at face value) such participations in Senior Loans of such type made by them (or unreimbursed Revolving LC Disbursements of such Class, which shall then be converted to Senior Loans) as shall be necessary to cause such purchasing Senior Lender to share the excess payment or other recovery ratably with each of them; provided, that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Senior Lender, the purchase shall be rescinded and each Senior Lender that has sold a participation to the purchasing Senior Lender shall repay to the purchasing Senior Lender the purchase price to the ratable extent of such recovery together with an amount equal to such selling Senior Lender's ratable share (according to the proportion of (x) the amount of such selling Senior Lender's required repayment to the purchasing Senior Lender to (y) the total amount so recovered from the purchasing Senior Lender) of any interest or other amount paid or payable by the purchasing Senior Lender in respect of the total amount so recovered. The Borrower agrees that any Senior Lender so purchasing a participation from another Senior Lender pursuant to this Section 4.15(a) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 14.14) with respect to such participation as fully as if such Senior Lender were the direct creditor of the Borrower in the amount of such participation. The provisions of this Section 4.15 shall not be construed to apply to any payment by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by any Senior Lender as consideration for the assignment or sale of a participation in any of its Senior Loans or the Revolving LCs to which it has a participation interest.

- (b) If under any applicable bankruptcy, insolvency or other similar law, any Senior Lender receives a secured claim in lieu of a setoff to which this Section 4.15 applies, then such Senior Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Senior Lenders entitled under this Section 4.15 to share in the benefits of any recovery on such secured claim.

4.16. Defaulting Lender Waterfall

Notwithstanding anything in this Agreement or any other P1 Financing Document to the contrary, any payment of principal, interest, fees or other amounts received by the P1 Administrative Agent for the account of any Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 12 or otherwise) or received by the P1 Administrative Agent from a Defaulting Lender pursuant to Section 14.14 shall be applied at such time or times as may be determined by the P1 Administrative Agent as follows: (a) *first*, to the payment of any amounts owing by such Defaulting Lender to the P1 Administrative Agent or P1 Collateral Agent hereunder, (b) *second*, to the payment on a *pro rata* basis of any amounts owing by such Defaulting Lender to the Revolving LC Issuing Bank, (c) *third*, to cash collateralize the Revolving LC Exposure with respect to such Defaulting Lender in accordance with Section 3.7, (d) *fourth*, as the Borrower may request (so long as no Default or Event of Default has occurred and is continuing) to the funding of any Senior Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the P1 Administrative Agent, (e) *fifth*, if so determined by the P1 Administrative Agent and the Borrower, to be held in a deposit account and released *pro rata* in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to the Senior Loans under this Agreement and (y) cash collateralize the Revolving LC Issuing Bank's future Revolving LC Exposure with respect to such Defaulting Lender with respect to future Revolving LCs issued under this Agreement, in accordance with Section 3.7, (f) *sixth*, to the payment of any amounts owing to the Senior Lenders or the Revolving LC Issuing Bank as a result of any final and Non-Appealable judgment of a court of competent jurisdiction obtained by any Senior Lender or the Revolving LC Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, (g) *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any final and Non-Appealable judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, and (h) *eighth*, to such Defaulting Lender or as otherwise directed by a final and Non-Appealable judgment of a court of competent jurisdiction; provided, that if (x) such payment is a payment of the principal amount of Senior Loans or Revolving LC Disbursements in respect of which such Defaulting Lender has not funded its appropriate share and (y) such Senior Loans were made or the related Revolving LCs were issued during a period when the applicable conditions to such Credit Agreement Advance or issuance set forth in Article 7 were satisfied or waived, such payment shall be applied solely to pay the Senior Loans of, and Revolving LC Disbursements owed to, all Senior Lenders that are not Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Senior Loans of, or Revolving LC Disbursements owed to, such Defaulting Lender, until such time as all Senior Loans and funded and unfunded participations in Revolving LCs and are held by the Senior Lenders *pro rata* in accordance with the applicable Senior Loan Commitments of each Class. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this

Section 4.16 shall be deemed paid to and redirected by such Defaulting Lender, and each Senior Lender irrevocably consents hereto.

4.17. Defaulting Lender Cure

If the Borrower, the P1 Administrative Agent and, with respect to any Revolving Lender, the Revolving LC Issuing Bank, agree in writing that any Senior Lender is no longer a Defaulting Lender, the P1 Administrative Agent will so notify the Parties, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), that Senior Lender will, to the extent applicable, purchase at par that portion of outstanding Senior Loans of the other Senior Lenders or take such other actions as the P1 Administrative Agent may determine to be necessary to cause the Senior Loans and funded and unfunded participations in Revolving LCs to be held *pro rata* by the Senior Lenders in accordance with the Senior Loan Commitments, whereupon such Senior Lender will cease to be a Defaulting Lender; provided, that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Senior Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Senior Lender will constitute a waiver or release of any claim of any party hereunder arising from that Senior Lender's having been a Defaulting Lender.

4.18. Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Collateral Proceeds

If any mandatory prepayment of the Senior Secured Debt is made by the Borrower in accordance with the provisions of Sections 4.10(a)(i), 4.10(a)(ii), 4.10(a)(iv), 4.10(a)(v), or 4.10(b), then the Borrower (a) shall terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreement, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that the aggregate notional amount (after giving effect to any Offsetting Transactions) of the Senior Secured IR Hedge Transactions satisfies the maximum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 9.5 and (b) may, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11, terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to such prepayment of Senior Secured Debt, the aggregate notional amount of the Senior Secured IR Hedge Transactions across all Senior Secured IR Hedge Counterparties is not less than the minimum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11.

4.19. Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Replacement Debt

A portion of the net proceeds of any Replacement Debt (a) shall, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 9.5, be used to terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to any prepayment of Senior Secured Debt with such Replacement Debt, the aggregate notional amount (after giving effect to any Offsetting Transactions) of all Senior Secured IR Hedge Transactions does not

exceed the maximum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement or Section 9.5 and (b) may, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11, be used to terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to any prepayment of Senior Secured Debt with such Replacement Debt, the aggregate notional amount of the Senior Secured IR Hedge Transactions across all Senior Secured IR Hedge Counterparties is not less than the minimum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11.

4.20. Termination of Senior Secured IR Hedge Transactions in Connection with Voluntary Payments

Upon any voluntary prepayment of the Senior Secured Debt, the Borrower (a) shall, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 9.5, terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to such prepayment of Senior Secured Debt, the aggregate notional amount (after giving effect to any Offsetting Transactions) of the Senior Secured IR Hedge Transactions does not exceed the maximum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement or Section 9.5 and (b) may, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11, terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of the Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to such prepayment of Senior Secured Debt, the aggregate notional amount of the Senior Secured IR Hedge Transactions across all Senior Secured IR Hedge Providers is not less than the minimum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11.

5. SOFR, BENCHMARK, AND TAX PROVISIONS

5.1. Illegality

In the event that it becomes unlawful or, by reason of a Change in Law, any Senior Lender is unable to honor its obligation to make, maintain or fund SOFR Loans or to determine or charge interest rates based upon SOFR or Daily Compounded SOFR, then such Senior Lender will promptly notify the Borrower of such event (with a copy to the P1 Administrative Agent) (an "**Illegality Notice**") and such Senior Lender's obligation to make or to continue SOFR Loans, or to convert Base Rate Loans into SOFR Loans, as the case may be, shall be suspended until such time as such Senior Lender may again make and maintain SOFR Loans. During such period of suspension, the Base Rate shall, if necessary to avoid such illegality, be determined by the P1 Administrative Agent without reference to clause (c) of the definition of "Base Rate". Upon receipt of such Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Senior Lender (with a copy to the P1 Administrative Agent), prepay or if applicable, convert each SOFR Loan made by such Senior Lender to Base Rate Loans (the interest rate on which Base Rate Loan shall, if necessary to avoid such illegality, be determined by the P1 Administrative Agent without reference to clause (c) of the

definition of "Base Rate"), on the ~~Quarterly Payment~~ Monthly Transfer Date therefor for such SOFR Loan, or immediately if any Senior Lender may not lawfully continue to maintain such SOFR Loans to such day. Upon any such prepayment or conversion of all of the aggregate principal amount under any outstanding SOFR Loan, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.5. At the Borrower's request, each Senior Lender agrees to use reasonable efforts, including using reasonable efforts to designate a different lending office for funding or booking its Senior Loans or to assign its rights and obligations under the P1 Financing Documents to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Senior Lender, such designation or assignment (a) would eliminate or avoid such illegality and (b) would not subject such Senior Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Senior Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Senior Lender in connection with any such designation or assignment.

5.2. Inability to Determine Rates

(a) Subject to Section 5.7, if, as of any date:

- (i) the P1 Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Daily Compounded SOFR" cannot be determined pursuant to the definition thereof, or
- (ii) the Majority Senior Lenders determine that for any reason in connection with any SOFR Loan, any request therefor or a conversion thereto or a continuation thereof that Daily Compounded SOFR does not adequately and fairly reflect the cost to such Senior Lenders of making and maintaining such Senior Loan, and the Majority Senior Lenders have provided notice of such determination to the P1 Administrative Agent,

then in each case, the P1 Administrative Agent will promptly so notify the Borrower and each Senior Lender.

- (b) Upon notice thereof by the P1 Administrative Agent to the Borrower, any obligation of the Senior Lenders to make SOFR Loans, and any right of the Borrower to continue SOFR Loans or to convert Base Rate Loans to SOFR Loans, shall be suspended (to the extent of the affected SOFR Loans) until the P1 Administrative Agent (with respect to clause (a)(ii), at the instruction the Majority Senior Lenders) revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans (to the extent of the affected SOFR Loans) or, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (ii) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans immediately. Upon any such conversion of all of the aggregate principal amount under any outstanding SOFR Loan, the Borrower shall also pay accrued interest on the amount so converted, together with any additional amounts required pursuant to Section 5.5. Subject to Section 5.7, if the P1 Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Daily Compounded SOFR" cannot be determined pursuant to the definition thereof on any given day, the

interest rate on Base Rate Loans shall be determined by the P1 Administrative Agent without reference to clause (c) of the definition of "Base Rate" until the P1 Administrative Agent revokes such determination.

5.3. Increased Costs

- (a) If any Change in Law shall (i) (A) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Senior Lender or the Revolving LC Issuing Bank, (B) subject the P1 Administrative Agent, the Revolving LC Issuing Bank, or any Senior Lender or any other recipient of any payment to be made by or on account of any Obligation of the Borrower to any Taxes (other than (x) Indemnified Taxes, (y) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (z) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, or (C) impose on any Senior Lender or the Revolving LC Issuing Bank any other condition, cost or expense (other than Taxes) affecting this Agreement or Senior Loans made by such Senior Lender or any Revolving LC or participation in any such Senior Loan or Revolving LC, and (ii) the result of any of the foregoing shall be to increase the cost to such Person of making, converting to, continuing or maintaining any Senior Loan or Revolving LC (or of maintaining its obligation to make any such Senior Loan or Revolving LC) to the Borrower or to reduce the amount of any sum received or receivable by such Person hereunder (whether of principal, interest or any other amount), then the Borrower will pay to such Person such additional amount or amounts as will compensate such Person for such additional costs incurred or reduction suffered (except to the extent the Borrower is excused from payment pursuant to Section 5.4).
- (b) If any Senior Lender or ~~the~~ Revolving LC Issuing Bank reasonably determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Senior Lender's or Revolving LC Issuing Bank's capital or (without duplication) on the capital of such Senior Lender's or Revolving LC Issuing Bank's holding company, if any, as a consequence of this Agreement or any of the Senior Loans or Revolving LC made by such Senior Lender or Revolving LC Issuing Bank, to a level below that which such Senior Lender or Revolving LC Issuing Bank's, or its holding company, could have achieved but for such Change in Law (taking into consideration such Senior Lender's or Revolving LC Issuing Bank's policies and the policies of its holding company with respect to capital adequacy and liquidity), then from time to time upon notice by such Senior Lender or Revolving LC Issuing Bank, the Borrower shall pay within ten Business Days following the receipt of such notice to such Senior Lender or Revolving LC Issuing Bank such additional amount or amounts as will compensate such Senior Lender or Revolving LC Issuing Bank or (without duplication) such Senior Lender's or Revolving LC Issuing Bank's holding company in full for any such reduction suffered (except to the extent the Borrower is excused from payment pursuant to

Section 5.4). In determining such amount, such Senior Lender or Revolving LC Issuing Bank may use any method of averaging and attribution that it (in its sole discretion) shall deem appropriate.

- (c) To claim any amount under this Section 5.3, the P1 Administrative Agent or a Senior Lender or Revolving LC Issuing Bank, as applicable, shall promptly deliver to the Borrower (with a copy to the P1 Administrative Agent) a certificate setting forth in reasonable detail the amount or amounts necessary to compensate the P1 Administrative Agent, Senior Lender or Revolving LC Issuing Bank or its holding company, as the case may be, under Section 5.3(a) or Section 5.3(b), which shall be conclusive absent manifest error. The Borrower shall pay the P1 Administrative Agent, Senior Lender or Revolving LC Issuing Bank, as applicable, the amount shown as due on any such certificate within ten Business Days after receipt thereof.
- (d) Promptly after the P1 Administrative Agent, Senior Lender or Revolving LC Issuing Bank, as applicable, has determined that it will make a request for increased compensation pursuant to this Section 5.3, such Person shall notify the Borrower thereof (with a copy to the P1 Administrative Agent). Failure or delay on the part of the P1 Administrative Agent, Senior Lender or Revolving LC Issuing Bank to demand compensation pursuant to this Section 5.3 shall not constitute a waiver of such Person's right to demand such compensation provided, that the Borrower shall not be required to compensate a Person pursuant to this Section 5.3 for any increased costs or reductions attributable to the failure of such Person to notify Borrower within 225 days after the Change in Law giving rise to those increased costs or reductions of such Person's intention to claim compensation for those circumstances; provided, further, that, if the Change in Law giving rise to those increased costs or reductions is retroactive, then the 225-day period referred to above shall be extended to include that period of retroactive effect.
- (e) Notwithstanding any other provision in this Agreement, no Senior Lender shall demand compensation pursuant to this Section 5.3 in respect of the Change in Law arising from the matters described in the proviso to the definition of "Change in Law" if it shall not at the time be the general policy or practice of such Senior Lender, as determined by such Senior Lender, to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any. For the avoidance of doubt, this clause (e) shall not impose an obligation on a Senior Lender to provide information regarding compensation claimed and/or paid under any other specific loan agreement; provided, that such Senior Lender shall, upon request from the Borrower, provide a written confirmation to the Borrower regarding whether it is the general policy or practice of such Senior Lender, as the case may be, to demand such compensation in similar circumstances under comparable provisions of other credit agreements.

5.4. Obligation to Mitigate; Replacement of Lenders

- (a) If any Senior Lender or the Revolving LC Issuing Bank requests compensation under Section 5.3, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Senior Lender, the Revolving LC Issuing Bank, or any Government Authority for the account of any Senior Lender or such Revolving LC Issuing Bank pursuant to Section 5.6, then such Senior Lender or the

Revolving LC Issuing Bank shall use reasonable efforts to designate a different lending or issuing office for funding or booking its Senior Loans hereunder or issuing Revolving LCs or to assign its rights and obligations under the P1 Financing Documents to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Senior Lender or the Revolving LC Issuing Bank, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.3 or Section 5.6, as applicable, in the future and (ii) would not subject such Senior Lender or such Revolving LC Issuing Bank to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Senior Lender or the Revolving LC Issuing Bank or violate any applicable Government Rule. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Senior Lender or the Revolving LC Issuing Bank in connection with any such designation or assignment.

- (b) Subject to Section 5.4(d), if any Senior Lender or the Revolving LC Issuing Bank requests compensation under Section 5.3, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Senior Lender, the Revolving LC Issuing Bank, or any Government Authority for the account of any Senior Lender or the Revolving LC Issuing Bank pursuant to Section 5.6 and, in each case, such Senior Lender or the Revolving LC Issuing Bank has declined or is unable to designate a different lending or issuing office or to make an assignment in accordance with Section 5.4(a), or if any Senior Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice in writing to such Senior Lender or the Revolving LC Issuing Bank and the P1 Administrative Agent, request such Senior Lender or the Revolving LC Issuing Bank to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 14.4), all (but not less than all) its interests, rights (other than its existing rights to payments pursuant to Section 5.3, Section 5.5 or Section 5.6) and obligations under this Agreement (including all of its Senior Loans and Senior Loan Commitments) to an Eligible Assignee that shall assume such obligations (which assignee may be another Senior Lender, if a Senior Lender accepts such assignment); provided, that (i) the Borrower shall have received the prior written consent of the P1 Administrative Agent and to the extent such assignee is assuming any Revolving Loan Commitments, the Revolving Lenders, (ii) such Senior Lender or such Revolving LC Issuing Bank shall have received payment of an amount equal to all Obligations of the Borrower owing to such Senior Lender or such Revolving LC Issuing Bank from such assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other Obligations), (iii) in the case of any such assignment resulting from a claim for compensation under Section 5.3 or payments required to be made pursuant to Section 5.6, such assignment will result in the elimination or reduction of such compensation or payments, and (iv) such assignment does not conflict with any applicable law binding upon or to which such Senior Lender or such Revolving LC Issuing Bank is subject. A Senior Lender shall not be required to make any such assignment and delegation if, as a result of a waiver by such Senior Lender of its rights under Section 5.3 or Section 5.6, as applicable, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply.
- (c) If any Senior Lender (such Senior Lender, a **Non-Consenting Lender**) has failed to consent to a proposed amendment, waiver, consent or termination which, pursuant to the terms of Section 14.1, requires the consent of all of the Senior

Lenders or all of the affected Senior Lenders and with respect to which the Majority Senior Lenders or the Majority Affected Lenders (as applicable), shall have granted their consent, then the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) to replace all such Non-Consenting Lenders by requiring such Non-Consenting Lenders to assign all their Senior Loans and all their Senior Loan Commitments to one or more Eligible Assignees; provided, that (i) all Non-Consenting Lenders must be replaced with one or more Eligible Assignees that grant the applicable consent, (ii) all Obligations of the Borrower owing to such Non-Consenting Lenders being replaced shall be paid in full to such Non-Consenting Lenders concurrently with such assignment, and (iii) the replacement Senior Lenders shall purchase the foregoing by paying to such Non-Consenting Lenders a price equal to the amount of such Obligations. In connection with any such assignment, the Borrower, the P1 Administrative Agent, such Non-Consenting Lenders and the replacement Senior Lenders shall otherwise comply with Section 14.4.

- (d) As a condition of the right of the Borrower to remove any Senior Lender pursuant to Section 5.4(b) and Section 5.4(c), the Borrower may, at the Borrower's own cost and expense, arrange for the assignment or novation of any Senior Secured IR Hedge Agreements with such Senior Lender or any of its Affiliates within twenty Business Days after such removal; provided, that such Senior Lender (or its Affiliate, as applicable) shall use commercially reasonable efforts to promptly effectuate any such assignment or novation.
- (e) Notwithstanding anything in this Section 5.4 to the contrary, any Senior Lender that acts as a Revolving LC Issuing Bank may not be replaced as a Revolving LC Issuing Bank hereunder at any time it has a Revolving LC outstanding hereunder unless arrangements reasonably satisfactory to such Senior Lender (including the furnishing of a back-stop standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to such Revolving LC Issuing Bank or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to such Revolving LC Issuing Bank) have been made with respect to such outstanding Revolving LC.

5.5. Funding Losses

In the event of (a) the payment of any principal of any SOFR Loan other than on the ~~Quarterly Payment~~ **Monthly Transfer** Date therefor (including as a result of an Event of Default), (b) the conversion of any SOFR Loan other than on the ~~Quarterly Payment~~ **Monthly Transfer** Date therefor (including as a result of an Event of Default), (c) the failure to borrow, convert, continue or prepay any SOFR Loan on the date specified in any notice delivered pursuant hereto, (d) the assignment of any SOFR Loan other than on the ~~Quarterly Payment~~ **Monthly Transfer** Date therefor as a result of a request by the Borrower pursuant to Section 5.4, or (e) any default in the making of any payment or prepayment required to be made hereunder, then, in any such event, the Borrower shall compensate each Senior Lender for the loss, cost and expense attributable to such event, including any loss, cost or expense arising from the liquidation or redeployment of funds or from any fees payable. A certificate of any Senior Lender setting forth any amount or amounts that such Senior Lender is entitled to receive pursuant to this Section 5.5 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay to the P1 Administrative Agent for the benefit of the applicable Senior Lender

the amount due and payable and set forth on any such certificate within ten Business Days after receipt thereof.

5.6. Taxes

- (a) Defined Terms. For purposes of this Section 5.6, the term “Senior Lender” includes the Revolving LC Issuing Bank and the term “Government Rule” includes FATCA.
- (b) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any P1 Financing Document shall be made without deduction or withholding for any Taxes, except as required by Government Rules. If any Government Rule (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Government Authority in accordance with Government Rules and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.6) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.
- (c) Payment of Other Taxes by Borrower. The Borrower shall timely pay to the relevant Government Authority in accordance with Government Rules, or at the option of the P1 Administrative Agent timely reimburse it for the payment of, any Other Taxes.
- (d) Indemnification by Borrower. The Borrower shall indemnify each Recipient, within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.6) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Senior Lender (with a copy to the P1 Administrative Agent), or by the P1 Administrative Agent on its own behalf or on behalf of a Senior Lender, shall be conclusive absent manifest error.
- (e) Indemnification by the Senior Lenders. Each Senior Lender shall severally indemnify the P1 Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes attributable to such Senior Lender (but only to the extent that the Borrower has not already indemnified the P1 Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Senior Lender’s failure to comply with the provisions of Section 14.4(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Senior Lender, in each case, that are payable or paid by the P1 Administrative Agent in connection with any P1 Financing Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed

or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to any Senior Lender by the P1 Administrative Agent shall be conclusive absent manifest error. Each Senior Lender hereby authorizes the P1 Administrative Agent to set off and apply any and all amounts at any time owing to such Senior Lender under any P1 Financing Document or otherwise payable by the P1 Administrative Agent to the Senior Lender from any other source against any amount due to the P1 Administrative Agent under this Section 5.6.

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Government Authority pursuant to this Section 5.6, the Borrower shall deliver to the P1 Administrative Agent the original or a certified copy of a receipt issued by such Government Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the P1 Administrative Agent.

(g) Status of Lenders.

(i) Any Senior Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any P1 Financing Document shall deliver to the Borrower and the P1 Administrative Agent, at the time or times reasonably requested by the Borrower or the P1 Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the P1 Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Senior Lender, if reasonably requested by the Borrower or the P1 Administrative Agent, shall deliver such other documentation prescribed by Government Rules or reasonably requested by the Borrower or the P1 Administrative Agent as will enable the Borrower or the P1 Administrative Agent to determine whether or not such Senior Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (A), (B), and (D) of Section 5.6(g)(ii)) shall not be required if in the Senior Lender's reasonable judgment such completion, execution or submission would subject such Senior Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Senior Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) Any Senior Lender that is a U.S. Person shall deliver to the Borrower and the P1 Administrative Agent on or about the date on which such Senior Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the P1 Administrative Agent), executed copies of IRS Form W-9 certifying that such Senior Lender is exempt from U.S. federal backup withholding tax;

- (B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the P1 Administrative Agent (in such number of copies as shall be requested by the Recipient) on or about the date on which such Foreign Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the P1 Administrative Agent), whichever of the following is applicable:
- (1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any P1 Financing Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any P1 Financing Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;
 - (2) executed copies of IRS Form W-8ECI;
 - (3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code (a “**U.S. Tax Compliance Certificate**”) and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or
 - (4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, or other certification documents from each beneficial owner, as applicable; provided, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;
- (C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the P1 Administrative Agent (in

such number of copies as shall be requested by the Recipient) on or about the date on which such Foreign Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the P1 Administrative Agent), executed copies of any other form prescribed by Government Rules as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Government Rules to permit the Borrower or the P1 Administrative Agent to determine the withholding or deduction required to be made; and

- (D) if a payment made to a Senior Lender under any P1 Financing Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Senior Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Senior Lender shall deliver to the Borrower and the P1 Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the P1 Administrative Agent such documentation prescribed by Government Rules (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the P1 Administrative Agent as may be necessary for the Borrower and the P1 Administrative Agent to comply with their obligations under FATCA and to determine that such Senior Lender has complied with such Senior Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

- (iii) Each Senior Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the P1 Administrative Agent in writing of its legal inability to do so.

- (h) Status of P1 Administrative Agent. The P1 Administrative Agent (and any successor or supplemental P1 Administrative Agent on the date it becomes the P1 Administrative Agent) shall provide the Borrower with two duly completed original copies of, if it is not a U.S. Person, IRS Form W-8ECI or W-8BEN-E with respect to payments to be received by it as a beneficial owner and, if applicable, IRS Form W-8IMY (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Senior Lenders, and shall update such forms periodically upon the reasonable request of the Borrower. In the event that the P1 Administrative Agent is a U.S. Person that is not a corporation, the P1 Administrative Agent shall provide the Borrower with two duly completed original copies of IRS Form W-9.
- (i) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it

has been indemnified pursuant to this Section 5.6 (including by the payment of additional amounts pursuant to this Section 5.6), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.6 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Government Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 5.6(i) (plus any penalties, interest or other charges imposed by the relevant Government Authority) in the event that such indemnified party is required to repay such refund to such Government Authority. Notwithstanding anything to the contrary in this Section 5.6(i), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.6(i) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 5.6(i) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

- (j) Survival. Each party's obligations under this Section 5.6 shall survive the resignation or replacement of the P1 Administrative Agent or any assignment of rights by, or the replacement of, a Senior Lender, the termination of the Construction/Term Loan Commitment or the Revolving Loan Commitment, as applicable, the expiration or cancellation of all Revolving LCs and the repayment, satisfaction or discharge of all obligations under any P1 Financing Document.

5.7. Benchmark Replacement Setting.

- (a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other P1 Financing Document, upon the occurrence of a Benchmark Transition Event, the P1 Administrative Agent and the Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the P1 Administrative Agent has posted such proposed amendment to all affected Senior Lenders and the Borrower so long as the P1 Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Majority Senior Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 5.7(a) will occur prior to the applicable Benchmark Transition Start Date. No Senior Secured IR Hedge Agreement shall be deemed to be a "P1 Financing Document" for purposes of this Section 5.7.
- (b) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the P1 Administrative Agent will have the right to make Conforming Changes from time to time (in consultation with the Borrower) and, notwithstanding anything to the contrary herein or in any other P1 Financing Document, any amendments

implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other P1 Financing Document.

- (c) Notices; Standards for Decisions and Determinations. The P1 Administrative Agent will promptly notify the Borrower and the Senior Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The P1 Administrative Agent will notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to this Section 5.7, and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the P1 Administrative Agent or, if applicable, any Senior Lender (or group of Senior Lenders) pursuant to this Section 5.7, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other P1 Financing Document, except, in each case, as expressly required pursuant to this Section 5.7.
- (d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other P1 Financing Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the P1 Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the P1 Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the P1 Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.
- (e) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (i) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (ii) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans immediately. During a Benchmark Unavailability Period ~~or at any time that a tenor for the then-current Benchmark is not an Available Tenor~~, the component of Base Rate based upon the then-current

Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate.

6. REPRESENTATIONS AND WARRANTIES

6.1. General

- (a) The Borrower makes each representation and warranty set forth in Article 3 (*Representations and Warranties*) of the Common Terms Agreement on the Closing Date to, and in favor of, the P1 Administrative Agent, each of the Senior Lenders, and the Revolving LC Issuing Bank.
- (b) The Borrower makes each representation and warranty set forth in this Article 6 on the Closing Date to, and in favor of, the P1 Administrative Agent, each of the Senior Lenders, the Revolving LC Issuing Bank, and each other Party hereto.
- (c) All of the representations and warranties set forth in this Article 6 shall survive the Closing Date, and except as provided below, shall be deemed to be repeated by the Borrower on the date of each Credit Agreement Advance, each issuance, amendment, extension or modification of any Revolving LC (other than pursuant to any automatic extension or evergreen provision), and the Term Conversion Date, in each case, to and in favor of the P1 Administrative Agent, each of the Senior Lenders, the Revolving LC Issuing Bank and each other Party hereto.

6.2. Existence

- (a) The Borrower is a limited liability company duly formed, validly existing, and in good standing under the laws of the State of Texas.
- (b) As of the Closing Date, each RG Facility Entity is a limited liability company duly formed, validly existing and in good standing under the laws of the state of Delaware and is in good standing and authorized to do business under the laws of the State of Texas.

6.3. Financial Condition

The financial statements of the Borrower furnished to the P1 Intercreditor Agent pursuant to Section 6.1 (*Financial Statements*) of the Common Terms Agreement (or pursuant to Section 7.1(d) or Section 10.1 of this Agreement), fairly present in all material respects the financial condition of the Borrower as of the date thereof, all in accordance with GAAP (subject to normal year-end adjustments and footnote disclosure in the case of interim financial statements).

6.4. Action

- (a) The Borrower has the power and authority to execute and deliver, and to perform its obligations under, the Credit Agreement Transaction Documents to which it is a party, including the granting of security interests and Liens pursuant to the Senior Security Documents, in each case to which it is a party. The execution, delivery and performance by the Borrower of each of the Credit Agreement Transaction Documents to which it is a party have been duly authorized by all necessary limited liability company action on the part of the Borrower. Each of

the Credit Agreement Transaction Documents to which the Borrower is a party has been duly executed and delivered by the Borrower. Assuming that each P1 Financing Document has been duly executed and delivered by each party thereto other than the Borrower, each P1 Financing Document is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws. As of the Closing Date, assuming that each Material Project Document has been duly executed and delivered by each party thereto other than the Borrower, each Material Project Document is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

- (b) As of the Closing Date, (i) each of the RG Facility Entities has the power and authority to execute and deliver, and to perform its obligations under, the Credit Agreement Transaction Documents to which it is a party, including the granting of security and liens pursuant to the Senior Security Documents, in each case to which any such RG Facility Entity is a party, (ii) the execution, delivery, and performance by each of the RG Facility Entities of each of the Credit Agreement Transaction Documents to which it is a party have been duly authorized by all necessary limited liability company action on the part of such RG Facility Entity, (iii) each of the Credit Agreement Transaction Documents to which any RG Facility Entity is a party has been duly executed and delivered by such RG Facility Entity, and (iv) assuming that each Credit Agreement Transaction Document to which an RG Facility Entity is a party has been duly executed and delivered by each other party thereto, such Credit Agreement Transaction Document is in full force and effect and constitutes the legal, valid and binding obligation of such RG Facility Entity, enforceable against such RG Facility Entity in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

6.5. No Breach

- (a) The execution, delivery, and performance by the Borrower of each of the P1 Financing Documents to which it is or will become a party, and the execution, delivery, and performance by the Borrower of each of the Material Project Documents to which it is or will become a party, do not and will not:
 - (i) conflict with its Organic Documents and its Organic Documents do not prevent execution, delivery, or performance by it of the P1 Financing Documents to which it is a party;
 - (ii) violate any provision of any Government Rule applicable to the Borrower, the Rio Grande Facility, the Project, or the Development, except in the case of this subclause (ii), where such violation could not reasonably be expected to have a Material Adverse Effect; or
 - (iii) result in, or create any Lien (other than a Permitted Lien) upon or with respect to any of the Properties now owned or hereafter acquired by the Borrower.

- (b) As of the Closing Date, the execution, delivery, and performance by each RG Facility Entity of each of the Consent Agreements to which it is a party, and the execution, delivery, and performance by each of the RG Facility Entities of each of the Material Project Documents to which it is a party does not:
 - (i) conflict with its Organic Documents and its Organic Documents do not prevent execution, delivery, or performance by it of the Consent Agreements to which it is a party;
 - (ii) violate any provision of any Government Rule applicable to such RG Facility Entity, the Rio Grande Facility, the Project, or the Development, except in the case of this subclause (ii), where such violation could not reasonably be expected to have a Material Adverse Effect; or
 - (iii) result in, or create any Lien (other than an RG Facility Entity Permitted Lien) upon or with respect to any of the Properties now owned or hereafter acquired by such RG Facility Entity.

6.6. Government Approvals; Government Rules

As of the Closing Date:

- (a) no material Government Approvals are required for the Development except for (i) the DOE Export Authorization, the FERC Authorization, and those Government Approvals set forth on Schedule 6.6(b), Schedule 6.6(c), and Schedule 6.6(e), and (ii) those Government Approvals that may be required as a result of the exercise of remedies under the P1 Financing Documents;
- (b) all Material Government Approvals for the Development set forth on Schedule 6.6(b) (i) have been duly obtained, (ii) are in full force and effect, (iii) are final and Non-Appealable pursuant to any right of appeal set out in the Government Rules pursuant to which such Government Approval was issued (other than the FERC Remand Order and such Material Government Approvals which do not have limits on rehearing or appeal periods under Government Rule), (iv) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(b), and (v) are free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;
- (c) all Material Government Approvals for the Development set forth on Schedule 6.6(c) (i) have been duly obtained, (ii) are in full force and effect, (iii) are not the subject of any pending rehearing or appeal to the issuing agency and all applicable fixed time periods for rehearing or appeal to the issuing agency have expired (other than in the case of any such Material Government Approvals that do not have limits on rehearing or appeal periods); provided, that the statutory periods for rehearing requests and FERC action on rehearing in respect of the FERC Remand Order need not have expired, (iv) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as

specified in Schedule 6.6(c), and (v) are free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;

- (d) each of the DOE Export Authorization and FERC Authorization (i) has been duly obtained, (ii) is in full force and effect, (iii) is held in the name of the Borrower, (iv) is not the subject of any pending rehearing or appeal by or to DOE/FE, (v) is final and non-appealable (other than with respect to the FERC Remand Order), and (vi) is free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to so satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;
- (e) (i) all Material Government Approvals not obtained as of the Closing Date but necessary for the Development (including the sale of LNG) to be obtained by the Borrower or for the benefit of the Project by third parties as allowed pursuant to Government Rule are set forth on Schedule 6.6(e) and (ii) the Borrower reasonably believes that all Material Government Approvals set forth on Schedule 6.6(e) will be obtained in due course on or prior to the commencement of the appropriate stage of the Development for which such Material Government Approvals would be required, free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of the Development, except to the extent that a failure to so satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;
- (f) Except as set forth on Schedule 6.7, there is no action, suit, or proceeding pending, or to the Borrower's Knowledge threatened in writing, that could reasonably be expected to result in the materially adverse modification, rescission, termination, or suspension of any Material Government Approval;
- (g) the Borrower has not received any notice from any Government Authority asserting that any information set forth in any application submitted by or on behalf of it in connection with any Material Government Approval was inaccurate or incomplete such that it could reasonably be expected to have a Material Adverse Effect and, to its Knowledge, there has not been any such inaccurate or incomplete application that could reasonably be expected to have a Material Adverse Effect; and
- (h) there is no existing default by the Borrower under any applicable order, writ, injunction or decree of any Government Authority or arbitral tribunal, that could reasonably be expected to have a Material Adverse Effect.

6.7. Proceedings

As of the Closing Date, except as set forth in Schedule 6.7 and other than Environmental Claims (to which Section 6.8(h) shall apply), there is no pending, or to the Borrower's Knowledge, threatened in writing, litigation, investigation, action or proceeding, of or before any court, arbitrator or Government Authority which has a reasonable likelihood of being adversely determined and, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

6.8. Environmental Matters

As of the Closing Date, except as set forth in Schedule 6.8:

- (a) except as could not reasonably be expected to result in a Material Adverse Effect, the Borrower and the Project are, and have been, in compliance with all applicable Environmental Laws;
- (b) there are no past or present facts, circumstances, conditions, events, or occurrences, including Releases of Hazardous Materials by the Borrower or with respect to the Project or any Land on which the Project is located, that could reasonably be expected to give rise to any Environmental Claims that could reasonably be expected to have a Material Adverse Effect or cause the Project to be subject to any restrictions on ownership, occupancy, use or transferability under any Environmental Laws that could reasonably be expected to have a Material Adverse Effect (excluding restrictions on the transferability of Government Approvals upon the transfer of ownership of assets subject to such Government Approval);
- (c) Hazardous Materials have not at any time been Released at, on, under or from the Project, or any Land on which it is situated, by the Borrower or, to the Knowledge of the Borrower, other Persons, other than in material compliance at all times with all applicable Environmental Laws or in a manner that could not reasonably be expected to result in a Material Adverse Effect;
- (d) No Environmental and Social Incident has occurred that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect;
- (e) there have been no material environmental investigations, studies, audits, reviews or other analyses relating to environmental site conditions that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect and that have been conducted by, or that are in the possession or control of, the Borrower in relation to the Project, or any Land on which it is situated, that have not been provided to the P1 Collateral Agent;
- (f) the Borrower has not received any letter or request for information under Section 104 of CERCLA, or comparable state laws, and to the Knowledge of the Borrower, none of the operations of the Borrower is the subject of any investigation by a Government Authority evaluating whether any remedial action is needed to respond to a Release or threatened Release of any Hazardous Materials relating to the Project, or any Land on which it is situated, or at any other location, including any location to which the Borrower has transported, or arranged for the transportation of, any Hazardous Materials with respect to the

Development, which, in each case above, could reasonably be expected to have a Material Adverse Effect;

- (g) the Development is in compliance in all material respects with the applicable requirements of the Environmental and Social Action Plan and the Equator Principles;
- (h) except as set forth in Schedule 6.8, there is no pending, or to the Borrower's Knowledge, threatened in writing, Environmental Claim against the Borrower, the Rio Grande Facility, the Project, or the Development, in each case that has a reasonable likelihood of being adversely determined and, if adversely determined, could reasonably be expected to have a Material Adverse Effect;
- (i) the Borrower has not received any notice from any Government Authority asserting that any information set forth in any application submitted by or on behalf of it in connection with any Material Government Approval under Environmental Laws was inaccurate or incomplete that could reasonably be expected to have a Material Adverse Effect and, to its Knowledge, there has not been any such inaccurate or incomplete application that could reasonably be expected to have a Material Adverse Effect; and
- (j) there is no existing default by the Borrower under any applicable order, writ, injunction or decree of any Government Authority or arbitral tribunal, in each case, under Environmental Laws, that could reasonably be expected to have a Material Adverse Effect.

6.9. Taxes

The Borrower has timely filed or caused to be filed all material tax returns that are required to be filed, and has paid (i) all taxes shown to be due and payable on such returns or on any material assessments made against the Borrower or any of its Property and (ii) all other material Taxes imposed on the Borrower or its Property by any Government Authority (other than Taxes the payment of which are not yet due, giving effect to any applicable extensions or the permitted period for payment prior to the Tax becoming delinquent or incurring interest or penalties, or which are being Contested), and no tax Liens (other than Permitted Liens) have been filed and no material actions, suits, proceedings, investigations, audits, or claims are being asserted with respect to any such Taxes (other than claims which are being Contested).

6.10. Tax Status

The Borrower is a limited liability company that is treated as a partnership or an entity disregarded for U.S. federal, state and local income tax purposes as separate from its owner and not an association taxable as a corporation, and neither the execution or delivery of any P1 Financing Document nor the consummation of any of the transactions contemplated thereby shall affect such status.

6.11. ERISA; ERISA Event

- (a) The Borrower does not employ any current or former employees.

- (b) The Borrower does not sponsor, maintain, administer, contribute to, participate in, or have any obligation to contribute to, or any liability under, any Plan, Pension Plan or Multiemployer Plan nor has the Borrower established, sponsored, maintained, administered, contributed to, participated in, or had any obligation to contribute to or liability under any Plan, Pension Plan or Multiemployer Plan including any liability of any ERISA Affiliate, other than joint and several contingent liability of an ERISA Affiliate that is not material and is not reasonably expected to be imposed on the Borrower.
- (c) No ERISA Event has occurred or is reasonably expected to occur, in each case, that could reasonably be expected to result in a Material Adverse Effect.

6.12. Nature of Business

The Borrower has not and is not engaged in any business other than the Development and the development of the Rio Grande Facility as contemplated by the Credit Agreement Transaction Documents then in effect and expansions to or modifications of the Rio Grande Facility and any activities incidental thereto made in accordance with the CFAA.

6.13. Senior Security Documents

Other than with respect to ~~real property~~ **Real Estate** (as to which Section 6.22 shall apply) the Borrower owns good and valid title to all of its property, free and clear of all Liens other than Permitted Liens. The provisions of the Senior Security Documents are effective to create, in favor of the P1 Collateral Agent for the benefit of the Senior Secured Parties, a legal, valid and enforceable perfected first priority Lien on and security interest in all of the Collateral purported to be covered thereby (subject to Permitted Liens and any exceptions permitted under the P1 Collateral Documents).

6.14. Subsidiaries

The Borrower has no Controlled Subsidiaries other than the RG Facility Entities (during any period when such RG Facility Entities remain Controlled Subsidiaries of the Borrower).

6.15. Investment Company Act of 1940

The Borrower is not, and after giving effect to the issuance of the Senior Secured Debt and the application of proceeds of the Senior Secured Debt in accordance with the provisions of the P1 Financing Documents will not be, an "investment company" required to be registered under the Investment Company Act of 1940.

6.16. Energy Regulatory Status

As of the Closing Date:

- (a) the Borrower is not subject to regulation as a "natural-gas company" as such term is defined in the Natural Gas Act;
- (b) the Borrower is not subject to regulation under PUHCA;

- (c) the Borrower is not subject to regulation under the Texas Utilities Code (Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 et seq (Vernon 2007 & Supp. 2021) ("**PURA**")) and the PUCT Substantive Rules of the State of Texas as a "public utility", or subject to rate regulation in the same manner as a "public utility";
- (d) the Borrower is not subject to regulation as a "gas utility" or be subject to rate regulation in the same manner as a "gas utility" pursuant to the Texas Utilities Code (Gas Utility Regulatory Act, Tex. Util. Code Ann §§101.001 et seq (Vernon 2007 & Supp. 2013) ("**GURA**"));
- (e) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party will, solely by virtue of the execution and delivery of the P1 Financing Documents, the consummation of the transactions contemplated by the P1 Financing Documents, and the performance of obligations under the P1 Financing Documents, be or become subject to regulation as a "natural-gas company" as such term is defined in the Natural Gas Act;
- (f) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party will, solely by virtue of the execution and delivery of the P1 Financing Documents, the consummation of the transactions contemplated by the P1 Financing Documents, and the performance of obligations under the P1 Financing Documents, be or become subject to regulation under PUHCA;
- (g) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party, solely by virtue of the execution and delivery of the P1 Financing Documents, the consummation of the transactions contemplated by the P1 Financing Documents, and the performance of obligations under the P1 Financing Documents shall be or become with respect to rates subject to regulation under PURA and the PUCT Substantive Rules of the State of Texas as a "public utility," or be subject to regulation in the same manner as a "public utility"; and
- (h) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party, solely by virtue of the execution and delivery of the P1 Financing Documents, the consummation of the transaction contemplated by the P1 Financing Documents, and the performance of obligations under the P1 Financing Documents shall be or become subject to regulation under the definitions of a "gas utility" contained in GURA or be subject to rate regulation in the same manner as a "gas utility" as long as those entities are not trustees or receivers of a gas utility.

6.17. Material Project Documents; Other Documents

As of the Closing Date:

- (a) set forth in Schedule 6.17 is a list of each Material Project Document including all amendments, amendments and restatements, supplements, waivers and interpretations modifying or clarifying any of the above, true, correct and complete copies of which have been delivered to the P1 Intercreditor Agent and each Senior Secured Debt Holder Representative and certified by an Authorized Officer of the Borrower;

- (b) each of the Material Project Documents is in full force and effect (assuming due execution, authorization, and delivery by the parties thereto other than the Borrower), and none of such Material Project Documents has been terminated or otherwise amended, modified, supplemented, transferred, Impaired or, to the Borrower's Knowledge, assigned, except as indicated on Schedule 6.17 or as permitted by the terms of the P1 Financing Documents;
- (c) the Borrower is not in default under any Material Project Document to which it is a party. To the Borrower's Knowledge, no default by any other Material Project Party exists under any provision of any such Material Project Document, except for such defaults that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;
- (d) there are no material contracts necessary for the current stage of the Development other than the Material Project Documents, the other Project Documents made available to the Senior Lenders at least three Business Days prior to the Closing Date (or such shorter date as may be agreed to by the P1 Administrative Agent in its reasonable discretion), and the P1 Financing Documents; and
- (e) all conditions precedent to the effectiveness of the Material Project Documents that have been executed on or prior to the Closing Date have been satisfied or waived.

6.18. Regulations T, U and X

The Borrower is not engaged principally, or as one of its principal activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (as defined or used in Regulations T, U or X of the Board of Governors of the Federal Reserve System, or any regulations, interpretations or rulings thereunder) and no part of the proceeds of the Senior Loans will be used to purchase or carry any such margin stock or to extend credit to others for the purpose of purchasing or carrying any such margin stock or otherwise in violation of Regulations T, U or X of the Board of Governors of the Federal Reserve System, or any regulations, interpretations or rulings thereunder, or any regulations substituted therefore, as from time to time in effect.

6.19. Patents, Trademarks, Etc.

The Borrower has obtained and holds in full force and effect all material patents, trademarks, copyrights or adequate licenses therein that are necessary for its portion of the Development except for such items which are not required in light of the applicable stage of Development. The Borrower reasonably believes that (i) it will be able to obtain such items that have not been obtained as of the date on which this representation and warranty is made or deemed repeated on or prior to the relevant stage of Development and (ii) no such items will contain any condition or requirements which the Borrower does not expect to be able to satisfy, in each case of clauses (i) and (ii), without material cost to the Borrower and in a manner that could not reasonably be expected to have a Material Adverse Effect.

6.20. Disclosure

Except as otherwise disclosed by the Borrower in writing on or prior to the Closing Date, neither this Agreement nor any P1 Financing Document nor any reports, financial

statements, certificates or other written information furnished to the Senior Lenders by or on behalf of the Borrower in connection with the negotiation of, and the extension of credit under the P1 Financing Documents and the transactions contemplated by the Material Project Documents or delivered to the P1 Intercreditor Agent, any Consultant, or the Senior Lenders or the P1 Administrative Agent (or their respective counsel), when taken as a whole, contains, as of the Closing Date, any untrue statement of a material fact pertaining to the Borrower, the Pledgor, any RG Facility Entity, or the Project, or omits to state a material fact pertaining to the Borrower, the Pledgor, any of the RG Facility Entities, or the Project necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading, in any material respect; provided, that (a) with respect to any projected financial information, forecasts, estimates, or forward-looking information, information of a general economic or general industry nature or pro forma calculation made in the Construction Budget and Schedule, this Agreement, the Base Case Forecast, including with respect to the start of operations of the Project, the Term Conversion Date, final capital costs or operating costs of the Development, oil prices, Gas prices, LNG prices, electricity prices, Gas reserves, rates of production, Gas market supplies, LNG market demand, exchange rates or interest rates, rates of taxation, rates of inflation, transportation volumes or any other forecasts, projections, assumptions, estimates or pro forma calculations, the Borrower represents only that such information was based on assumptions made in good faith and believed to be reasonable at the time made in light of the legal and factual circumstances then applicable to the Borrower and the Project, and the Borrower makes no representation as to the actual attainability of any projections set forth in the Base Case Forecast, the Construction Budget and Schedule, or any such other items listed in this clause (a) and (b) **and** the Borrower makes no representation with respect to any information or material provided by a Consultant (except to the extent such information or material originated with the Borrower).

6.21. Absence of Default

No Default or Event of Default has occurred and is continuing.

6.22. Real Property

The Real Property Interests constitute good and valid interests in and to the Site pursuant to the Real Property Documents, in each case as is necessary for the Development at the time this representation and warranty is made or deemed repeated.

6.23. Solvency

As of the Closing Date, the Borrower is and, upon the incurrence of any Obligations, and after giving effect to the transactions and the incurrence of Indebtedness in connection therewith, will be, Solvent.

6.24. Legal Name and Place of Business

As of the Closing Date:

- (a) the full and correct legal name, type of organization and jurisdiction of organization of the Borrower is: Rio Grande LNG, LLC, a limited liability company organized and existing under the laws of the State of Texas;

- (b) the Borrower has never changed its name or location (as defined in Section 9-307 of the UCC), except as indicated in Schedule 4.1 of the P1 Security Agreement; and
- (c) the chief executive office of the Borrower is 1000 Louisiana Street, 39th Floor, Houston, Texas 77002.

6.25. No Force Majeure

As of the Closing Date, no event of force majeure or other event or condition exists which (a) provides any Material Project Party the right to cancel or terminate any Material Project Document to which it is a party in accordance with the terms thereof or (b) provides any Material Project Party the right to suspend its performance (or be excused of any liability) under any Material Project Document to which it is a party in accordance with the terms thereof, which suspension (or excuse) could reasonably be expected to result in the Project failing to achieve the Project Completion Date on or before the Date Certain.

6.26. Ranking

Other than with respect to Indebtedness referred to in clause (c) of the definition of Credit Agreement Permitted Indebtedness (solely in respect of assets financed by such Indebtedness), the P1 Financing Documents and the obligations evidenced thereby (a) are and will at all times be direct and unconditional general obligations of the Borrower, (b) subject to Section 4.10, rank and will at all times rank in right of payment and otherwise at least *pari passu* with all Senior Secured Debt, and (c) are and at all times will be senior in right of payment to all other Indebtedness of the Borrower (other than Senior Secured Debt) whether now existing or hereafter outstanding.

6.27. Labor Matters

As of the Closing Date, no strikes, lockouts, or slowdowns in connection with the Borrower, the Project or the Development exist or, to the Knowledge of the Borrower, are threatened which could reasonably be expected to have a Material Adverse Effect.

6.28. Anti-Corruption Laws, Anti-Terrorism, and Money Laundering Laws

- (a) None of the Borrower, any RG Facility Entity, or, to the Borrower's Knowledge, any director, officer or employee of the Borrower or any RG Facility Entity (i) is in violation of any Anti-Terrorism and Money Laundering Laws, (ii) is in violation of any Anti-Corruption Laws, or (iii) to the Borrower's Knowledge, has taken any action directly or indirectly that the Borrower reasonably believes gives rise to circumstances presently in existence that could constitute a violation of any Anti-Corruption Laws or Anti-Terrorism and Money Laundering Laws.
- (b) The Borrower has instituted and maintains policies and procedures, including appropriate controls, reasonably designed to promote compliance by the Borrower and the RG Facility Entities, and its and their directors, officers, employees, and authorized agents with Anti-Corruption Laws and Anti-Terrorism and Money Laundering Laws (to the extent applicable).

6.29. Sanctions

- (a) As of the Closing Date, neither the making of any Senior Loan nor the use of proceeds of any Senior Loan by the Borrower or the RG Facility Entities will violate or cause any violation by any Person of applicable Sanctions Regulations.
- (b) None of the Borrower nor, to the knowledge of the Borrower, any RG Facility Entity, nor any director, officer, or to the knowledge of the Borrower, employee or agent of any of the foregoing, is a Restricted Person.
- (c) The Borrower has instituted and maintains policies and procedures, including appropriate controls, reasonably designed to promote compliance by Borrower and the RG Facility Entities, and its and their directors, officers, employees, and authorized agents with Sanctions Regulations.

6.30. Accounts

The Borrower does not have, and is not the beneficiary of, any bank account other than the P1 Accounts~~and~~, the Common Accounts, **and the Distribution Account (if applicable)**

6.31. No Condemnation

As of the Closing Date, no material Event of Loss or material Event of Taking of the Project or the Land has occurred or (in the case of material condemnation) is, to the Borrower's Knowledge, threatened in writing or pending.

6.32. Project Development

Based on information available to the Borrower as of any date on which this representation is made or deemed repeated, the Borrower reasonably expects that (a) Substantial Completion under each P1 EPC Contract will occur on or before the Date Certain and (b) it will receive feed gas for the Project from the Rio Bravo Pipeline, Valley Crossing Pipeline, or one or more Alternative Pipelines in volumes sufficient to comply with Section 4.6C (*Natural Gas Feed to Achieve Substantial Completion*) of the T1/T2 EPC Contract and Section 4.6C (*Natural Gas Feed to Achieve Substantial Completion*) of the T3 EPC Contract.

The term "**Alternative Pipelines**" as used in this Section 6.32 shall mean one or more alternative pipelines that the Borrower elects to substitute for the Rio Brave Pipeline or the Valley Crossing Pipeline by entering into new precedent and firm transportation agreements with respect to such Alternative Pipelines and terminating or releasing capacity under the applicable Gas Transportation Agreements with the consent of the P1 Administrative Agent (acting on instruction of Majority Senior Lenders), such consent not to be unreasonably withheld if it delivers to the P1 Administrative Agent each of the following:

- (i) executed precedent and related firm transportation agreements with one or more Persons (including Affiliates of any ~~Sponsor~~ **Equity Owner**) reflecting customary market terms and providing for firm transportation through the Alternative Pipelines of sufficient quantities of Gas to meet

the Project's LNG delivery obligations under the ~~Qualified-Offtake~~ **Credit** Agreement **Designated Offtake Agreements**;

- (ii) to the extent that any Alternative Pipeline has not yet been constructed, a description of the funding plan proposed by the Alternative Pipeline owner and/or operator for the construction costs of such pipeline in order to achieve substantial completion thereof and a construction schedule for such pipeline (accompanied by a certification of the Borrower, to which the Independent Engineer concurs, that substantial completion of such pipeline is reasonably expected by the time at which the P1 Train Facilities will require Gas delivered through the pipelines for commissioning, start-up and/or operations); and a certification by the Borrower that such financing of the Alternative Pipeline is non-recourse to the Borrower (and, for the avoidance of doubt, the Borrower's obligations to pay a tariff and provide customary credit support under any precedent agreement or firm transportation agreement for such pipeline shall not be considered recourse for these purposes);
- (iii) evidence that all material Government Approvals from applicable Government Authorities required for **the** construction and operation of the Alternative Pipelines and storage, if any, have been obtained or, if any such pipeline has not yet been constructed, are reasonably expected to be obtained in the ordinary course when necessary without material expense or delay to the construction of such pipelines;
- (iv) a certificate of the Borrower confirming that the operator of such Alternative Pipelines and storage has substantial experience in the construction and operation of similar pipelines and storage and the Independent Engineer has concurred with such confirmation (such concurrence not to be unreasonably withheld, conditioned or delayed);
- (v) the route of the Alternative Pipelines has been determined and the rights of way to construct such pipelines have been obtained or are reasonably expected to be obtained in the ordinary course (including through eminent domain) without material expense or delay to the construction of such pipeline;
- (vi) a report from the Independent Engineer confirming reasonable compliance in all material respects by the pipeline operator with respect to the construction (if applicable) and operation of the Alternative Pipelines and storage with the Environmental and Social Action Plan and confirming the adequacy of such Alternative Pipelines and storage to meet the Project's contractual obligations under any then-existing Credit Agreement Designated Offtake Agreement (taking into account, if the developer of such Alternative Pipelines is not Affiliated with the Borrower or a Sponsor, only such information as the Borrower is able to obtain from such operator through use of commercially reasonable efforts); and
- (vii) an updated Base Case Forecast calculated on a pro forma basis giving effect to changes in operating expenses and gas transportation costs arising from the Alternative Pipeline arrangements (but applying the assumptions in the last Base Case Forecast to have been delivered for all other

assumptions), demonstrates that, assuming all principal amounts of Senior Secured Debt (excluding principal amounts and Senior Secured Debt Commitments with respect to Working Capital Debt) are amortized to a zero balance by the end of the Latest Qualified Term of the Credit Agreement Designated Offtake Agreements in effect at such time, the Alternative Pipeline transportation arrangements will not result in a Credit Agreement Projected DSCR of less than 1.45:1.00 for the period commencing on the first Quarterly Payment Date for repayment of principal following such substitution to the end of the calendar year in which such Quarterly Payment Date occurs, and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) thereafter through the Latest Qualified Term of the Credit Agreement Designated Offtake Agreements.

6.33. Insurance

Except as otherwise permitted pursuant to the CFAA or otherwise pursuant to the P1 Financing Documents, the Facility Policies applicable to the Project are in full force and effect if and to the extent required to be in effect at such time.

7. CONDITIONS PRECEDENT

7.1. Conditions to Closing Date and Initial Credit Agreement Advance

The occurrence of the Closing Date and the effectiveness of the Senior Loan Commitments is subject to the satisfaction of each of the following conditions precedent to the satisfaction of each of the P1 Administrative Agent, the Senior Lenders, and the Revolving LC Issuing Bank, unless, in each case, waived by each of the P1 Administrative Agent, the Senior Lenders, and the Revolving LC Issuing Bank:

- (a) Delivery of P1 Financing Documents. The P1 Administrative Agent shall have received true, correct and complete copies of the following documents, each of which shall have been duly authorized, executed and delivered by the parties thereto:
 - (i) this Agreement;
 - (ii) the Common Terms Agreement;
 - (iii) the Collateral and Intercreditor Agreement;
 - (iv) the P1 Security Agreement;
 - (v) the P1 Deed of Trust;
 - (vi) the P1 Pledge Agreement;
 - (vii) the P1 Accounts Agreement;
 - (viii) the P1 Equity Contribution Agreement, and, to the extent applicable, each P1 Equity Guaranty delivered thereunder on the Closing Date;

- (ix) the Common Accounts Agreement;
 - (x) the Common Deed of Trust;
 - (xi) the Bank Fee Letters;
 - (xii) the Fee Letters;
 - (xiii) the CFCo Deed of Trust; and
 - (xiv) any Senior Loan Notes (to the extent requested by any Senior Lender at least three Business Days prior to the Closing Date).
- (b) Delivery of Material Project Documents; Consent Agreements The P1 Administrative Agent shall have received:
- (i) true, correct and complete copies of each of the Material Project Documents (other than the Additional Material Project Documents), each of which shall have been duly authorized, executed and delivered by the parties thereto;
 - (ii) a duly executed copy of each "Notice to Proceed" under and as defined in each of the P1 EPC Contracts; and
 - (iii) the Consent Agreements listed on Schedule 7.1(b)(iii), each of which shall have been duly authorized, executed and delivered by the parties thereto.
- (c) Opinions from Counsel. The P1 Administrative Agent shall have received the following legal opinions, each in form and substance reasonably satisfactory to the P1 Administrative Agent, the P1 Collateral Agent, the Senior Lenders, and the Revolving LC Issuing Bank (with sufficient copies thereof for each addressee):
- (i) the opinion of Latham & Watkins LLP, transaction counsel to each of the Loan Parties, the Sponsor, and each of the RG Facility Entities;
 - (ii) the opinion of K&L Gates LLP, special FERC and DOE regulatory counsel to the Borrower;
 - (iii) the opinion of Duggins Wren Mann & Romero, LLP, with respect to certain regulatory and permitting matters;
 - (iv) the opinion of King & Spalding LLP, real property and special Texas counsel to each of the Borrower and each of the RG Facility Entities;
 - (v) the opinion of (A) White & Case, United Arab Emirates counsel to Mamoura Diversified Global Holding P.J.S.C. and Mubadala Treasury Holding Company LLC, (B) the opinion of White & Case, English counsel to Mamoura Diversified Global Holding P.J.S.C., Mubadala Treasury Holding Company LLC, and Mic Ti Holding Company 2 RSC Limited, and (C) the opinion of Jones Day, New York counsel to TotalEnergies Gas & Power North America, Inc., Global LNG North America Corp., and TotalEnergies Holdings SAS;

- (vi) the substantive non-consolidation opinion of Latham & Watkins LLP, special counsel to the Borrower and each of the RG Facility Entities, with respect to the bankruptcy-remote status of the Borrower and each of the RG Facility Entities; and
 - (vii) opinions of counsel of the Material Project Parties to the Material Project Documents listed on Schedule 7.1(c)(vii).
- (d) Financial Statements. The Senior Lenders and the Revolving LC Issuing Bank shall have received certified copies of (i) the most recent quarterly consolidated financial statements of the Borrower, which financial statements need not be audited, (ii) the most recent audited annual consolidated financial statements of the Borrower, (iii) an unaudited *pro forma* balance sheet of the Borrower as of the Closing Date provided, that no notes shall be required to be included in such balance sheet), which balance sheet shall have been prepared giving effect (as if such events had occurred on such date) to (x) the Senior Secured Debt to be incurred on or about the Closing Date under this Agreement and any other Senior Secured Debt Instrument and the use of proceeds thereof and (y) the payment of fees and expenses in connection with the foregoing, and (iv) to the extent delivered to the Borrower, quarterly and annual financial statements of the Material Project Parties, which financial statements need not be audited or certified by the Borrower.
- (e) Government Approvals and DOE Export Authorization.
- (i) The P1 Administrative Agent shall have received evidence satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank that all Material Government Approvals for the Development set forth on Schedule 6.6(b) (A) have been duly obtained, (B) are in full force and effect, (C) are final and Non-Appealable pursuant to any right of appeal set out in the Government Rules pursuant to which such Government Approval was issued (other than the FERC Remand Order and Material Government Approvals which do not have limits on rehearing or appeal periods under Government Rule), (D) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(b), and (E) are free from conditions or requirements (1) the compliance with which could reasonably be expected to have a Material Adverse Effect or (2) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of the Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.
 - (ii) The P1 Administrative Agent shall have received evidence satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank that all Material Government Approvals for the Development set forth on Schedule 6.6(c) (A) have been duly obtained, (B) are in full force and effect, (C) are not the subject of any pending rehearing or appeal to the issuing agency and all applicable fixed time periods for rehearing or appeal to the issuing agency have expired (other than in the case of any such Government Approvals that do not have limits

on rehearing or appeal periods); provided, that the statutory periods for rehearing requests and FERC action on rehearing in respect of the FERC Remand Order need not have expired, (D) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(c), and (E) are free from conditions or requirements (1) the compliance with which could reasonably be expected to have a Material Adverse Effect or (2) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.

- (iii) The P1 Administrative Agent shall have received evidence satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank that each of the DOE Export Authorization, the FERC Authorization and the FERC Remand Order (A) has been duly obtained, (B) is in full force and effect, (C) is held in the name of the Borrower, (D) is not the subject of any pending rehearing or appeal (other than the FERC Remand Order), and (E) is free from conditions or requirements (1) the compliance with which could reasonably be expected to have a Material Adverse Effect or (2) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.

(f) Project Development. The P1 Administrative Agent shall have received:

- (i) a duly executed certificate executed by an Authorized Officer of the Borrower certifying (A) that attached to such certificate is a true, correct and complete copy of the Construction Budget and Schedule, (B) that such budget and schedule have been prepared on a reasonable basis and in good faith and upon assumptions believed by the Borrower to be reasonable at the time when made and on the Closing Date, (C) that the Construction Budget and Schedule are consistent with the requirements of the Credit Agreement Transaction Documents, and (D) the Borrower is in compliance with the Environmental and Social Action Plan;
- (ii) a copy of the Base Case Forecast in form and substance reasonably satisfactory to the P1 Administrative Agent, the Senior Lenders, and the Revolving LC Issuing Bank that demonstrates that all Construction/Term Loans shall be capable of amortization such that the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each four-Fiscal Quarter period (as of the end of each Fiscal Quarter) through the term of the Notional Amortization Period, shall not be less than 1.45:1.00 (provided, that for purposes of this Section 7.1(f)(ii), the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume that all Senior Loan Commitments will be fully drawn), which shall be accompanied by a duly executed certificate executed by an Authorized Officer of the Borrower certifying (A) that the projections in the Base Case Forecast were made in good faith and (B) that the

assumptions on the basis of which such projections were made were believed by the Borrower (when made and delivered) to be reasonable and consistent with the Construction Budget and Schedule and the Credit Agreement Transaction Documents;

- (iii) a due diligence report of the Independent Engineer, in final form satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank, together with a reliance letter for such report;
- (iv) a due diligence report of the Market Consultant, in final form satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank, together with a reliance letter for such report;
- (v) a due diligence report of Norton Rose Fulbright US LLP, as the counsel to the Senior Lenders and the Revolving LC Issuing Bank, in final form satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank;
- (vi) a report of the Environmental Advisor (including (A) the Environmental Advisor's analysis of the Borrower's compliance with the Equator Principles (and setting forth any recommendations for actions necessary to achieve compliance, if applicable), (B) assessment of climate change risks and impacts, and (C) the Environmental and Social Action Plan), in final form satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank, together with a reliance letter for such report; and
- (vii) a report of the Shipping Consultant, in final form satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank, together with a reliance letter for such report.

(g) Insurance.

- (i) The P1 Administrative Agent shall have received (A) a report from the Insurance Advisor, in final form satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank and (B) a duly executed Insurance Advisor Closing Date Certificate, confirming that the insurance policies to be provided in connection with the Insurance Program conform to the requirements specified in the P1 Financing Documents and the Material Project Documents and that the Senior Lenders and the Revolving LC Issuing Bank may rely on the report specified in clause (A) above.
- (ii) On or prior to the Closing Date, the Borrower shall deliver brokers letters and binders or certificates signed by the insurer or a broker, in each case in compliance with, and evidencing the existence of all insurance required to be maintained pursuant to, the Insurance Program.

(h) Real Property and Collateral. The P1 Administrative Agent shall have received each of the following:

- (i) the Common Title Policy;

- (ii) the Survey;
 - (iii) copies of the Real Property Documents, as well as copies of all other real property documents necessary for the Development; and
 - (iv) consents and such other title curative documents necessary to satisfy the requirements and conditions of the Common Title Company to the issuance of the Common Title Policy or necessary or appropriate to create and perfect a first-priority Lien on and security interest over all of the Collateral (subject only to Permitted Liens).
- (i) Bank Regulatory Requirements. Each Senior Lender and Revolving LC Issuing Bank and the P1 Collateral Agent shall have received, or had access to, to the extent requested at least three Business Days prior to the Closing Date:
- (i) a Beneficial Ownership Certification from the Borrower if it qualifies as a “legal entity customer” under the Beneficial Ownership Regulation; and
 - (ii) all documentation and other information required by bank regulatory authorities under applicable KYC Requirements.
- (j) Officer’s Certificates. The P1 Administrative Agent shall have received the following:
- (i) a duly executed certificate of an Authorized Officer of each of the Loan Parties, and the RG Facility Entities certifying:
 - (A) that attached to such certificate is (1) a true, correct, and complete copy of the certificate of formation of such person, certified by the applicable Secretary of State as of a recent date and (2) a true, correct and complete copy of the limited liability company agreement of such Person;
 - (B) that attached to such certificate is a true, correct, and complete copy of resolutions, duly adopted by the authorized governing body of such person, authorizing the execution, delivery and performance of such of the Credit Agreement Transaction Documents to which such person is or is intended to be party, and that such resolutions have not been modified, rescinded or amended and are in full force and effect;
 - (C) as to the incumbency and specimen signature of each manager, officer, or member (as applicable) of such person executing the Credit Agreement Transaction Documents to which such person is or is intended to be a party and each other document to be delivered by such person from time to time pursuant to the terms thereof;
 - (ii) a duly executed certificate of an Authorized Officer of the Borrower dated as of the Closing Date, certifying that (A) the copies of each Material Project Document delivered pursuant to Section 6.17(a) are true, correct and complete copies of such document, (B) each such Material Project

Document is in full force and effect and no term or condition of any such Material Project Document has been amended from the form thereof delivered to the P1 Administrative Agent, (C) each of the conditions precedent set forth in each Material Project Document delivered pursuant to Section 6.17(a) that is required to be satisfied has been satisfied or waived by the parties thereto, and (D) no material breach, material default or material violation by the Borrower or, to the Knowledge of the Borrower, by any Material Project Party under any such Material Project Document has occurred and is continuing; and

- (iii) a duly executed certificate of an Authorized Officer of the Borrower certifying that each of the representations and warranties of the Borrower contained in this Agreement and the other P1 Financing Documents is true and correct in all respects on and as of such date.
- (k) Establishment of Accounts and Common Accounts. Each of the P1 Accounts and the Common Accounts shall have been established as required pursuant to the P1 Accounts Agreement and the Common Accounts Agreement, respectively.
- (l) Lien Search; Perfection of Security. The P1 Administrative Agent shall have received evidence satisfactory to the P1 Administrative Agent, the Senior Lenders, and the Revolving LC Issuing Bank of the following actions in connection with the perfection of the Collateral:
 - (i) completed requests for information or copies of the Uniform Commercial Code search reports and tax lien, judgment and litigation search reports, dated as of a recent date before the Closing Date, for the States of Delaware, Texas, and any other jurisdiction reasonably requested by the P1 Administrative Agent that name the Borrower, the Pledgor, and each RG Facility Entity, together with copies of each UCC financing statement, fixture filing or other filings listed therein, which shall evidence no Liens on the Collateral, other than Permitted Liens; and
 - (ii) evidence of the completion of all other actions, recordings and filings of or with respect to the Senior Security Documents that the P1 Administrative Agent, any Senior Lender or the Revolving LC Issuing Bank may deem necessary or reasonably desirable in order to perfect the first-priority (subject to Permitted Liens) Liens created thereunder, including (A) the delivery by Pledgor to the P1 Collateral Agent of the original certificates representing (1) all Equity Interests in the Borrower, together with duly executed transfer powers and irrevocable proxies in substantially the form attached to the P1 Pledge Agreement and (2) all Equity Interests in InsuranceCo and LandCo held by the Borrower, together with, if applicable, duly executed transfer powers and irrevocable proxies in substantially the form attached to the P1 Security Agreement, (B) if applicable, the delivery to the P1 Collateral Agent of original certificates representing all notes or other instruments representing Permitted Subordinated Debt, in each case, duly indorsed to the P1 Collateral Agent or in blank in accordance with a Pledge of Subordinated Debt Agreement, and (C) the filing of UCC-1 financing statements.

- (m) Authority to Conduct Business. The P1 Administrative Agent shall have received certificates of good standing or certificates of fact, dated as of a recent date prior to the Closing Date, from the Secretaries of State of each relevant jurisdiction, that each of the Loan Parties, and each of the RG Facility Entities is duly authorized to carry on its business and is duly organized, validly existing and in good standing in its jurisdiction of organization and, with respect to each of the RG Facility Entities, is duly authorized to carry on its business and existence in the State of Texas.
- (n) Independent Accounting Firm. The P1 Administrative Agent shall have received evidence satisfactory to the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank that the Borrower has appointed Grant Thornton LLP as its accounting firm.
- (o) Bankruptcy Remoteness. The Borrower and each RG Facility Entity shall be in compliance with its obligations in Schedule 4.3 (*Separateness*) of the Common Terms Agreement.
- (p) Lien Waivers. The P1 Administrative Agent shall have received (i) Lien Waivers executed by the P1 EPC Contractor substantially in the forms of Schedules K-1 and K-2 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under each P1 EPC Contract and (ii) Lien Waivers executed by each P1 Major EPC Subcontractor and P1 Major EPC Sub-subcontractor (provided, that no such Lien Waivers shall be required from any P1 Major EPC Subcontractor or P1 Major EPC Sub-subcontractor, to the extent that the aggregate amount of Work by such P1 Major EPC Subcontractor or such P1 Major EPC Sub-subcontractor through the date on which payment has been requested does not exceed \$150,000,000) substantially in the forms of Schedules K-3 and K-4 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under the P1 EPC Contracts, and in the case of each of the Lien Waivers under clauses (i) and (ii), the insertions in such interim Lien Waivers shall be satisfactory to the P1 Administrative Agent (in consultation with the Independent Engineer).
- (q) Flood Insurance. The Borrower shall have complied with its obligations under Section 8.17.
- (r) Withdrawal Certificate. The Borrower shall have provided a Withdrawal Certificate to the P1 Accounts Bank and the P1 Collateral Agent, which such Withdrawal Certificate shall request all withdrawals to be made from the P1 Construction Account on the Closing Date in accordance with the P1 Accounts Agreement.
- (s) Cash Equity Contributions. The Pledgor shall have made an equity contribution to the Borrower in an amount no less than \$286,333,336.00.
- (t) FID. The P1 Administrative Agent shall have received evidence that Sponsor has taken a final investment decision with respect to the Project.

- (u) Fees; Expenses. The P1 Administrative Agent shall have received (or will receive from the proceeds of such drawing) for its own account, or for the account of each Credit Agreement Senior Secured Party under this Agreement entitled thereto, all fees due and payable pursuant to this Agreement and any other P1 Financing Document, and all costs and expenses (including costs, fees and expenses of legal counsel and Consultants) payable hereunder or thereunder for which invoices have been presented. The Revolving LC Issuing Bank shall have received for its own account all fees due and payable to it directly pursuant to this Agreement.
- (v) TCF Credit Agreement; Note Purchase Agreement. The "Closing Date" as defined in and under the TCF Credit Agreement shall have occurred (or will occur simultaneously with the Closing Date) and "Closing" as defined in and under the Note Purchase Agreement, entered in connection with the CD Senior Notes Indenture, shall have occurred (or will occur simultaneously with the Closing Date).

7.2. Conditions to Construction/Term Loans

The obligation of each Construction/Term Lender to make any of its Construction/Term Loans will be subject to the (x) occurrence of the Closing Date, (y) the satisfaction or waiver by the Majority Construction/Term Lenders of each of the conditions set forth in Section 7.4, and (z) the satisfaction or waiver by the Majority Construction/Term Lenders of each of the following conditions precedent (provided, that, with respect to clauses (y) and (z) for any Construction/Term Loan Borrowing occurring on the Closing Date, the satisfaction or waiver by each Senior Lender):

- (a) Notice of Construction/Term Loan Borrowing. Solely with regard to the making of any Construction/Term Loan, the P1 Administrative Agent shall have received a duly executed Construction/Term Loan Borrowing Notice, as required by and in accordance with Section 2.2.
- (b) Independent Engineer Advance Certificate. The P1 Administrative Agent shall have received a duly executed Independent Engineer Advance Certificate together with, other than with respect to each Construction/Term Loan Borrowing on or after the date that is sixty days after the Closing Date, the Independent Engineer's monthly report for the month that is two months prior to the month in which such date is to occur.
- (c) Borrower Advance Certificate. The P1 Administrative Agent shall have received a duly executed Borrower Advance Certificate.
- (d) Construction Progress. The P1 Administrative Agent shall have received satisfactory evidence that (i) that the construction of the Project is proceeding substantially in accordance with the construction schedule set out in the Construction Budget and Schedule or, if not so proceeding, any delays will not result in Substantial Completion under each P1 EPC Contract not being completed by the Date Certain and (ii) as to the existence of sufficient funds needed to achieve Substantial Completion under each P1 EPC Contract by the Date Certain.
- (e) Real Property. The P1 Administrative Agent shall have received for each Construction/Term Loan Borrowing occurring after the Closing Date, a

Disbursement Endorsement for all Common Trust Property for the period covering the fiscal quarter ended immediately preceding the delivery of the Borrowing Notice (with each fiscal year commencing on January 1).

- (f) Lien Waivers. The P1 Administrative Agent shall have received (i) Lien Waivers executed by the P1 EPC Contractor substantially in the forms of Schedules K-1 and K-2 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under each P1 EPC Contract and (ii) Lien Waivers executed by each P1 Major EPC Subcontractor and P1 Major EPC Sub-subcontractor (provided, that no such Lien Waivers shall be required from any P1 Major EPC Subcontractor or P1 Major EPC Sub-subcontractor, to the extent that the aggregate amount of Work by such P1 Major EPC Subcontractor or such P1 Major EPC Sub-subcontractor through the date on which payment has been requested does not exceed \$150,000,000) substantially in the forms of Schedules K-3 and K-4 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under the P1 EPC Contracts, and in the case of each of the Lien Waivers under clauses (i) and (ii), the insertions in such interim Lien Waivers shall be satisfactory to the P1 Administrative Agent (in consultation with the Independent Engineer).
- (g) Equity Contributions. The Pledgor shall have concurrently deposited (or cause to be deposited) Equity Payments (as defined in the P1 Equity Contribution Agreement) in the P1 Construction Account on or prior to the date of the applicable Advance in such amounts as shall be required to cause the ratio of (i) outstanding principal amounts of Senior Secured Debt (excluding principal amounts and Senior Secured Debt Commitments in respect of Working Capital Debt) including the aggregate amount of the proceeds of the Construction/Term Loans made on or prior to such date to (ii) the Aggregate Funded Equity to not exceed 75:25.
- (h) Equity Credit Support. As of the date of the Construction/Term Loan Borrowing, the Pledgor shall be in compliance with its obligation to maintain Equity Credit Support in accordance with Section 2.2 (*Equity Credit Support*) of the P1 Equity Contribution Agreement.
- (i) Pro Rata Drawdown. To the extent commitments are outstanding thereunder, the Borrower shall have requested a "Construction/Term Loan Borrowing" as defined in and under the TCF Credit Agreement concurrently with the Construction/Term Loan Borrowing on a pro rata basis between the "Construction/Term Loan Commitment" as defined in the TCF Credit Agreement and the Construction/Term Loan Commitment hereunder (subject to minimum and increment requirements on borrowing hereunder and thereunder).

7.3. Conditions to Revolving Loans and Revolving LCs

The obligation of each Revolving Lender to make any of its Revolving Loans (other than any Revolving Loan to the extent resulting from a drawing on the Revolving LC) and of the Revolving LC Issuing Bank to issue a Revolving LC (or to extend the maturity or modify or amend the terms thereof) is subject to (x) the occurrence of the Closing Date, (y) the satisfaction or waiver by the Majority Revolving Lenders of the conditions

precedent set forth in Section 7.4, and (z) the satisfaction or waiver by the Majority Revolving Lenders of the following conditions (or, with respect to clauses (y) and (z) for any Revolving Loan Borrowing or issuance of any Revolving LC occurring on the Closing Date, the satisfaction or waiver by each Senior Lender and Revolving LC Issuing Bank):

- (a) Notice of Revolving Loan Borrowing. Solely with regard to the making of any Revolving Loan, the P1 Administrative Agent shall have received a duly executed Revolving Loan Borrowing Notice, as required by and in accordance with Section 2.7.
- (b) Request for Issuance. Solely with regard to the issuance of any Revolving LC, the P1 Administrative Agent and the Revolving LC Issuing Bank shall have received a duly executed Request for Issuance, as required by and in accordance with and meeting the requirements of Section 3.1.
- (c) Revolving Loan Borrowings and Issuances of Revolving LCs Prior to the Term Conversion Date Solely with regard to the making of any Revolving Loan or issuance, extension, modification or amendment of any Revolving LC, in each case prior to the Term Conversion Date, the P1 Administrative Agent shall have received a duly executed Independent Engineer Advance Certificate and a Borrower Advance Certificate.

7.4. Conditions to Each Senior Loan Borrowing and Issuance of Revolving LCs

The obligation of each Senior Lender to make any of its Senior Loans (other than any Revolving Loan to the extent resulting from a drawing on a Revolving LC) and of the Revolving LC Issuing Bank to issue a Revolving LC (or to extend the maturity or modify or amend the terms thereof) shall be subject to the satisfaction or waiver (in accordance with Section 7.2 or Section 7.3 (as applicable)) of the following conditions:

- (a) Representations and Warranties. Each of the representations and warranties of the Borrower in this Agreement and the Loan Parties in the other P1 Financing Documents is true and correct in all material respects (except in the case of the Closing Date in which case such representations and warranties shall be true and correct in all respects), except for (i) those representations and warranties that are qualified by materiality, which shall be true and correct in all respects, on and as of the date of such Senior Loan Borrowing as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) and (ii) the representations and warranties that, pursuant to Section 6.1(c), are not deemed repeated.
- (b) Absence of Default. No Default or Event of Default has occurred and is continuing on such date or will result from the consummation of the transactions contemplated by the Credit Agreement Transaction Documents.
- (c) Fees; Expenses. The P1 Administrative Agent shall have received (or will receive from the proceeds of such drawing) for its own account, or for the account of each Credit Agreement Senior Secured Party under this Agreement entitled thereto, all fees due and payable pursuant to this Agreement and any other P1 Financing Document, and all costs and expenses (including costs, fees and expenses of legal counsel and Consultants) payable hereunder or thereunder for which invoices

have been presented. The Revolving LC Issuing Bank shall have received for its own account all fees due and payable to it directly pursuant to this Agreement.

7.5. Conditions to Term Conversion Date Drawing

On the Term Conversion Date, the Borrower may request a Term Conversion Date Drawing, subject solely to the conditions set forth in Section 7.2(a), Section 7.2(g) (subject to the requirements of Section 2.1(d)(ii)), and Section 7.6.

7.6. Conditions to Term Conversion Date

The occurrence of the Term Conversion Date is subject to the satisfaction or waiver by the Majority Senior Lenders of each of the following conditions precedent:

- (a) Notice of Term Conversion. The P1 Administrative Agent shall have received a duly executed and completed Notice of Term Conversion from the Borrower.
- (b) Borrower Term Conversion Certificate. The P1 Administrative Agent shall have received a duly executed Borrower Term Conversion Certificate.
- (c) Substantial Completion Certificates. The P1 Administrative Agent shall have received copies of each certificate executed by the Borrower whereby the Borrower accepts Substantial Completion under each P1 EPC Contract.
- (d) Independent Engineer Term Conversion Certificate. The P1 Administrative Agent shall have received a duly executed Independent Engineer Term Conversion Certificate.
- (e) Permitted Completion Amount. If Final Completion under each P1 EPC Contract has not yet occurred, the P1 Collateral Agent shall have received evidence that the Permitted Completion Amount is on deposit in the P1 Construction Account after giving effect to the deposits and transfers set forth in Section 3.1 (*P1 Construction Account*) of the P1 Accounts Agreement.
- (f) Date of First Commercial Delivery. The P1 Administrative Agent shall have received a duly executed certificate of the Borrower certifying that the "Date of First Commercial Delivery" or an equivalent term under, and as defined in, each Credit Agreement Designated Offtake Agreement has timely occurred.
- (g) LRT Certificates. The P1 Administrative Agent shall have received executed copies of each of the LRT Certificates.
- (h) Common Title Policy. The P1 Administrative Agent shall have received a final Disbursement Endorsement satisfactory to the Majority Senior Lenders and such additional endorsements as the Majority Senior Lenders shall reasonably request as to Substantial Completion of any P1 Train Facilities and which are reasonably obtainable from title insurers in regards to commercial property located in the State of Texas.
- (i) Insurance.

- (i) The P1 Administrative Agent shall have received an Insurance Advisor Term Conversion Certificate confirming that all required adjustments to the Rio Grande Facility operational insurance policies have been implemented and that such insurance conforms to the requirements specified in the P1 Financing Documents and the Material Project Documents; and
 - (ii) On or prior to the Term Conversion Date, the Borrower shall deliver policies of insurance and brokers letters in compliance with, and evidence satisfactory to the Majority Senior Lenders of the existence of all insurance then required to be maintained by the Insurance Program and a certificate of InsuranceCo confirming the same.
- (j) Representations and Warranties. Each of the representations and warranties of the Borrower in this Agreement and the Loan Parties in the P1 Financing Documents is true and correct in all material respects, except for (i) those representations and warranties that are qualified by materiality, which shall be true and correct in all respects, on and as of the Term Conversion Date as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) and (ii) the representations and warranties that, pursuant to Section 6.1(c), are not deemed repeated.
- (k) Absence of Default. No Default or Event of Default has occurred and is continuing on such date or will result from the consummation of the transactions contemplated by the Credit Agreement Transaction Documents, including the occurrence of the Term Conversion Date.
- (l) Collateral. The Collateral is subject to the perfected first priority Lien (subject only to Permitted Liens **and any exceptions permitted under the P1 Collateral Documents**) intended to be established pursuant to the Senior Security Documents.
- (m) Government Approvals. The P1 Administrative Agent shall have received evidence satisfactory to the Majority Senior Lenders that all Material Government Approvals then required (i) have been duly obtained, (ii) are in full force and effect, (iii) are not the subject of any pending rehearing or appeal to the issuing agency and all applicable fixed time periods for rehearing or appeal to the issuing agency have expired (other than in the case of the FERC Remand Order and any such Material Government Approvals that do not have limits on rehearing or appeal periods), (iv) are held in the name of the holder thereof, and (v) are free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be satisfied on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.
- (n) Opinions of Counsel. The P1 Administrative Agent shall have received opinions from the Borrower's counsel in form and substance satisfactory to the Majority Senior Lenders (and addressed to each of the P1 Administrative Agent, the P1 Collateral Agent and the Senior Lenders) with respect to (i) all Additional Material Project Documents executed and delivered after the Closing Date, such opinions to address only those matters addressed in the opinions delivered

pursuant to Section 7.1(c) that related to Material Project Documents, and (ii) customary permitting and regulatory matters relating to the Development on and after the Project Completion Date, including any Material Government Approval obtained after the Closing Date and any additional DOE Export Authorizations obtained after the Closing Date.

- (o) Annual Operating Budget. The Annual Facility Budget and Annual Facility Plan for the calendar year in which the P1 Train Facilities have reached the respective Start Dates have been developed and approved pursuant to the CFAA.
- (p) Project Placed in Service. The P1 Administrative Agent shall have received evidence satisfactory to the Majority Senior Lenders that the Borrower has received from FERC a notice, order or other written communication authorizing it to place the Project in service, and the Project shall have been placed in service.
- (q) Construction Contract Liquidated Damages. All Performance Liquidated Damages and Delay Liquidated Damages due and payable as of the Term Conversion Date under the P1 EPC Contracts (other than any Performance Liquidated Damages or Delay Liquidated Damages that are subject to dispute or that are in any amount less than \$5,000,000) shall have been deposited into the appropriate P1 Accounts or Common Accounts and applied as set forth in the P1 Accounts Agreement or the Common Accounts Agreement.
- (r) Lien Waivers. The P1 Administrative Agent shall have received (i) Lien Waivers executed by the P1 EPC Contractor substantially in the forms of Schedules K-1 and K-2 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under each P1 EPC Contract and (ii) Lien Waivers executed by each P1 Major EPC Subcontractor and P1 Major EPC Sub-subcontractor (provided, that no such Lien Waivers shall be required from any P1 Major EPC Subcontractor or P1 Major EPC Sub-subcontractor, to the extent that the aggregate amount of Work by such P1 Major EPC Subcontractor or such P1 Major EPC Sub-subcontractor through the date on which payment has been requested does not exceed \$150,000,000) substantially in the forms of Schedules K-3 and K-4 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under the P1 EPC Contracts, and in the case of each of the Lien Waivers under clauses (i) and (ii), the insertions in such interim Lien Waivers shall be satisfactory to the P1 Administrative Agent (in consultation with the Independent Engineer).
- (s) Credit Agreement Debt Service Reserve Amount. As of the Term Conversion Date, the CD Senior Loan DSRA shall have been funded in cash and/or by one or more instruments of DSR Credit Support (as defined in the P1 Accounts Agreement) in accordance with the P1 Accounts Agreement in an amount equal to the Credit Agreement Debt Service Reserve Amount.
- (t) Letter of Credit Reimbursement. The Borrower shall have repaid any outstanding Revolving LC Loans.

- (u) Environmental and Social Action Plan. The Borrower shall be in compliance in all material respects with the applicable requirements of the Environmental and Social Action Plan.

8. AFFIRMATIVE COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in Article 4 (*Affirmative Covenants*) of the Common Terms Agreement and each of the following supplemental obligations set forth in this Article 8 in favor and for the benefit of the P1 Administrative Agent, each Senior Lender, and the Revolving LC Issuing Bank:

8.1. Maintenance of Existence, Etc.

Except as otherwise expressly permitted by Section 9.2(a), the Borrower shall maintain its limited liability company existence as a Texas limited liability company.

8.2. RG Facility Entities

- (a) The Borrower shall retain and at all times maintain its direct legal and beneficial ownership interest and Voting Interest in each RG Facility Entity, in each case, subject to adjustment in accordance with the limited liability company agreement of such RG Facility Entity.
- (b) The Borrower shall cause each RG Facility Entity to comply at all times with the separateness provisions set forth on Schedule 4.3 (*Separateness*), of the Common Terms Agreement.

8.3. Taxes

The Borrower shall (a) file (or cause to be filed) all tax returns required to be filed by the Borrower and any RG Facility Entity so long as such entity is a Controlled Subsidiary of the Borrower and (b) pay and discharge (or caused to be paid and discharged), before the same shall become delinquent, after giving effect to any applicable extensions, all Taxes imposed on the Borrower or any RG Facility Entity or their respective Properties unless such Taxes are subject to a Contest and such Contest, if adversely determined, could not reasonably be expected to have a Material Adverse Effect.

8.4. Compliance with Material Project Documents, Etc.

- (a) The Borrower shall take, and so long as any RG Facility Entity is a Controlled Subsidiary of the Borrower, cause such RG Facility Entity to take, all reasonable and necessary action to prevent the termination or cancellation of any Material Project Document in accordance with the terms of such Material Project Documents or otherwise (except (i) to the extent any such agreement expires in accordance with its terms and not as a result of a breach or default thereunder, (ii) to the extent any such agreement is permitted to be terminated (and if required, replaced) under the P1 Financing Documents, and (iii) to the extent provided under Section 8.5).

- (b) The Borrower shall, and so long as any RG Facility Entity is a Controlled Subsidiary of the Borrower, cause such RG Facility Entity to, comply with its contractual obligations and enforce against the relevant Material Project Party each covenant or obligation of each Material Project Document to which such Person is a party in accordance with its terms, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.
- (c) The Borrower shall, within thirty days after the date on which an Additional Material Project Document is executed, deliver or cause to be delivered to the P1 Collateral Agent:
 - (i) each Senior Security Document, if any, necessary to grant the P1 Collateral Agent a first priority perfected Lien in such Additional Material Project Document (subject only to Permitted Liens) (with a form of such document to be delivered prior to execution of such agreement); provided, that, notwithstanding the foregoing, no Consent Agreement shall be required by this clause (i) unless otherwise required by clause (d) below;
 - (ii) evidence of the authorization of the Borrower to execute (or, in the case of the assignment of the APCI License Agreement, the assignment of such agreement), deliver, and perform such Additional Material Project Document;
 - (iii) a certificate of the Borrower certifying that (A) all Government Approvals necessary for the execution, delivery, and performance of such Additional Material Project Document have been duly obtained, were validly issued and are in full force and effect and (B) such Additional Material Project Document is in full force and effect and constitutes a legal, valid and binding obligation of it, enforceable in accordance with its terms, except as enforcement may be limited by general principles of equity and bankruptcy, insolvency and similar Government Rules;
 - (iv) in respect of any Additional Material Project Document that is a Credit Agreement Designated Offtake Agreement or a guaranty in respect of a Credit Agreement Designated Offtake Agreement, or that otherwise is in replacement of or substitution for any Material Project Document in respect of which an opinion and Consent Agreement is required to be delivered, an opinion of counsel to the Borrower and an opinion of counsel to the counterparty, in each case, with respect to the due authorization, execution, and delivery of such document and the associated Consent Agreement and their validity and enforceability against such Person;
- (d) Within thirty days after executing any Additional Material Project Document that is a Material Project Document in replacement of a Material Project Document entered into on or prior to the Closing Date (or any replacement thereof), a Credit Agreement Designated Offtake Agreement, or any guaranty of any Credit Agreement Designated Offtake Agreement, the Borrower shall obtain and deliver to the P1 Collateral Agent a Consent Agreement with respect to such Additional Material Project Document;

- (e) Upon the assignment thereof to the Borrower, the Borrower shall use commercially reasonable efforts for a period of 180 days after assignment thereof to the Borrower to deliver a Consent Agreement in respect of the APCI License Agreement;
- (f) For the period from the first anniversary of the Closing Date and until 180 days thereafter, the Borrower shall use commercially reasonable efforts to deliver a Consent Agreement from each counterparty to an Initial Time Charter Party Agreement;
- (g) Except as set forth under any other subsection of this Section 8.4, the Borrower shall, for a period of 180 days after the execution thereof, use commercially reasonable efforts to obtain and deliver to the P1 Collateral Agent a Consent Agreement from each counterparty to any Additional Material Project Document; and
- (h) Notwithstanding any other provision of this Section 8.4, the Borrower shall not be required to obtain and deliver to the P1 Collateral Agent a Consent Agreement in respect of (i) any Gas transportation agreements entered into after the Term Conversion Date, any interconnection or storage agreements, other than any with the Sponsor or an Affiliate of the Sponsor or (ii) any Gas supply agreements.

8.5. Maintenance of Credit Agreement Designated Offtake Agreements; LNG Sales Mandatory Prepayment

- (a) The Borrower shall at all times maintain and designate to the P1 Administrative Agent Qualified Offtake Agreements providing for commitments to purchase LNG in quantities at least equal to the Base Committed Quantity for each such Qualified Offtake Agreement's applicable Qualified Term (collectively, the "**Credit Agreement Designated Offtake Agreements**"). In the event that any such Qualified Offtake Agreement has terminated, the Borrower shall designate another Qualified Offtake Agreement or enter into and designate one or more additional Qualified Offtake Agreements within 180 days following such termination to the extent necessary to meet the Base Committed Quantity. If at the end of such 180-day period, the Borrower is diligently pursuing one or more replacement Qualified Offtake Agreements, such period will be extended for an additional period (not to exceed ninety days) during which the Borrower reasonably expects to enter into such replacement Qualified Offtake Agreement(s) as long as the implementation of such extension could not reasonably be expected to result in a Material Adverse Effect.
- (b) The Borrower shall be required to make a mandatory prepayment of Senior Secured Debt (an **LNG Sales Mandatory Prepayment**") within thirty days of the occurrence of either of the events set forth below (each, an **"LNG Sales Mandatory Prepayment Event"**):
 - (i) the Borrower breaches the covenant in Section 8.5(a) (taking into account the period set forth therein to replace the relevant Offtake Agreement or designate any other Qualified Offtake Agreement); or

- (ii) with respect to any Credit Agreement Designated Offtake Agreement, any Required Export Authorization becomes Impaired and the Borrower does not:
- (A) provide a reasonable remediation plan (setting forth in reasonable detail proposed steps to reinstate the Required Export Authorization, to designate any existing Qualified Offtake Agreement as a Credit Agreement Designated Offtake Agreement, or to modify any Credit Agreement Designated Offtake Agreement arrangements, such as through diversions or alternative delivery or sale arrangements, such that such DOE Export Authorization is no longer a Required Export Authorization within 360 days following such occurrence) with respect to any or all such Credit Agreement Designated Offtake Agreements (each such item an “**Export Authorization Remediation**”) within thirty days following such occurrence;
 - (B) diligently pursue such Export Authorization Remediation; or
 - (C) cause such Export Authorization Remediation to take effect within 180 days following the occurrence of the Impairment; provided, that the Borrower shall have a further 180 days to effect an Export Authorization Remediation if the following conditions are met:
 - (1) the Borrower is diligently pursuing its plan for the Export Authorization Remediation;
 - (2) the Impairment of the Required Export Authorization of such Credit Agreement Designated Offtake Agreement could not reasonably be expected to result in a Material Adverse Effect during such subsequent cure period; and
 - (3) the P1 Administrative Agent has received a certification from the Borrower, prior to the expiration of the initial 180 day period, confirming that each condition in clauses (1) and (2) has been met together with documentation reasonably supporting its certification, which may include, to the extent relevant and applicable, a description of the plans being undertaken for the Export Authorization Remediation (although commercially sensitive information may be omitted), any measures being taken by the Borrower to address the underlying cause of the Impairment to the extent relevant to the Impairment and Export Authorization Remediation, any legal measures being undertaken to reverse the Impairment, any interim cash flow mitigation measures being taken by the Borrower (including sales of spot cargoes), any modification to Offtake Agreement arrangements such that the Impaired DOE Export Authorization is no longer a Required Export Authorization with respect to any or all such Credit Agreement Designated Offtake Agreements, and the impact on the Borrower projected Cash Flow during the

subsequent cure period, and the P1 Administrative Agent (acting on the instructions of the Majority ~~Affected~~ **Senior** Lenders), acting reasonably, has not objected to such certification within thirty days following delivery thereof.

- (c) The principal amount of the Senior Secured Debt (which shall not extend to any Working Capital Debt unless only Working Capital Debt remains outstanding) that the Borrower shall repay and/or the amount of undrawn Senior Secured Debt ~~commitments~~ **Commitments** that the Borrower shall cancel upon the occurrence of any LNG Sales Mandatory Prepayment Event shall be:
- (i) the aggregate principal amount of Senior Secured Debt (excluding principal amounts with respect to Working Capital Debt unless only Working Capital Debt is then outstanding) then outstanding *plus* the aggregate principal amount of undrawn Senior Secured Debt Commitments (except with respect to Working Capital Debt unless only Working Capital Debt is then outstanding); *less*
 - (ii) the maximum principal amount of Senior Secured Debt that can be incurred or remain outstanding, assuming that all outstanding principal amounts of Senior Secured Debt (excluding principal amounts and Senior Secured Debt Commitments in respect of Working Capital Debt) are amortized to a zero balance by the end of the Latest Qualified Term of the ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements in effect at such time without producing a Credit Agreement Projected DSCR of less than 1.45:1.00 for the period starting from the first Quarterly Payment Date for the repayment of principal after the end of the applicable cure period to the end of the calendar year in which such Quarterly Payment Date occurs, and for each calendar year thereafter through the expiration of the Latest Qualified Term of the ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements in effect at such time (based on a Base Case Forecast updated only to take into account each ~~Qualified~~ **Credit Agreement Designated** Offtake Agreement in effect at such time and in respect of which there is in effect its Required Export Authorization which is not Impaired (including any new ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements entered into to replace a ~~Qualified~~ **Credit Agreement Designated** Offtake Agreement whose termination triggered the LNG Sales Mandatory Prepayment Event)).
- (d) The Borrower shall provide to the P1 Administrative Agent reasonable documentary support to show the amount of Senior Secured Debt to be repaid and Senior Secured Debt Commitments to be cancelled, including the Base Case Forecast and, to the extent appropriate, the Credit Agreement Designated Offtake Agreements then in effect and reasonable background information regarding the Required Export Authorizations with respect to such Credit Agreement Designated Offtake Agreements and supporting the designation of such DOE Export Authorizations as Required Export Authorizations with respect to such Credit Agreement Designated Offtake Agreements.
- (e) In making the prepayment and cancellation described in Section 8.5(c) above, the Borrower shall *first* repay the aggregate principal amount of Senior Secured ~~Obligations~~ **Debt** then outstanding to the extent required under Sections 8.5(b)

and 8.5(c) or until there ~~are~~ **is** no more Senior Secured ~~Obligations~~ **Debt** outstanding and if this has not resulted in a prepayment of the amount required to satisfy the test in Section 8.5(b c)(ii) and *second* cancel the aggregate principal amount of ~~Construction/Term Loan Commitments and Revolving Loan~~ **Senior Secured Debt** Commitments to the extent required under Sections 8.5(b) and 8.5(c). **In making the cancellation described in Section 8.5(c) above, the Borrower shall cancel Construction/Term Loan Commitments prior to the cancellation of any other Senior Secured Debt Commitments and shall cancel Revolving Loan Commitments prior to the cancellation of any other Senior Secured Debt Commitments in respect of Working Capital Debt.** The prepayment and cancellation made pursuant to this Sections 8.5(b) and 8.5(c) shall be required to be made by the earliest of (i) the thirtieth day following the termination of the cure period applicable thereto, (ii) the next Quarterly Payment Date if such date is more than ten Business Days following the termination of the cure period applicable thereto, and (iii) the tenth Business Day following the termination of the cure period applicable thereto if the next Quarterly Payment Date is less than ten Business Days following the termination of the cure period applicable thereto.

- (f) Upon completion of the prepayment of Senior ~~Loans~~ **Secured Debt then outstanding** and cancellation of ~~Construction/Term Loan Commitments and Revolving Loan~~ **Senior Secured Debt** Commitments as and to the extent required by Sections 8.5(b)(iii) and 8.5(c) above, the LNG Sales Mandatory Prepayment Event and underlying breach of Section 8.5(a) or Impairment triggering such LNG Sales Mandatory Prepayment Event shall no longer be continuing under the P1 Financing Documents insofar as the same set of events, facts or circumstances that caused such breach, Impairment and mandatory prepayment are concerned, but without prejudice to the Borrower's obligations under Section 8.5(a) and this Section 8.5(f) with respect to any other event, fact or circumstance.

8.6. Compliance with Material Government Approvals, Etc.

- (a) The Borrower shall comply or cause compliance in all material respects with, and ensure that the Development is in compliance in all material respects with all Material Government Approvals.
- (b) The Borrower shall at all times obtain (by the time they are required), renew and maintain, or use commercially reasonable efforts to cause the RG Facility Entities or any other third party, as allowed pursuant to Government Rule, to obtain, renew or maintain, in full force and effect all Material Government Approvals as necessary for the Development or the operation of the Rio Grande Facility.

8.7. Compliance with Government Rules, Etc.

- (a) The Borrower shall comply or cause compliance in all material respects with, and ensure that the Development is in compliance in all material respects with all material Government Rules applicable to the Borrower or the Development, including Environmental Laws but excluding Government Rules applicable to Taxes, as to which Section 8.3 shall apply.

- (b) The Borrower shall cause the Development to be in compliance in all material respects with the applicable requirements of the Equator Principles and the Environmental and Social Action Plan.
- (c) The Borrower shall, and shall cause each of the RG Facility Entities to, comply in all material respects with Sanctions Regulations.
- (d) The Borrower agrees that if it obtains Knowledge or receives any written notice that the Borrower or any RG Facility Entity, or any Person holding a legal or beneficial interest therein (whether directly or indirectly) is or becomes a Restricted Person (such occurrence, a “**Sanctions Violation**”), the Borrower shall within a reasonable time (i) give written notice to the P1 Administrative Agent of such Sanctions Violation and (ii) comply with all applicable Sanctions Regulations with respect to such Sanctions Violation (regardless of whether the party included on the Sanctions List is located within the jurisdiction of the United States), and the Borrower hereby authorizes and consents to the P1 Administrative Agent taking any and all steps the P1 Administrative Agent deems necessary, in its sole discretion, to comply with all applicable Sanctions Regulations with respect to any such Sanctions Violation, including the “freezing” or “blocking” of assets and reporting such action to the applicable Sanctions Authority.
- (e) The proceeds of the Senior Loans will not be used by the Borrower and any of the RG Facility Entities, directly or knowingly indirectly, in violation of any Anti-Corruption Laws or Anti-Terrorism and Money Laundering Laws (to the extent applicable), including through the making of any bribe or unlawful payment.

8.8. Tax Status

The Borrower shall at all times maintain its status as a partnership or as an entity disregarded for U.S. federal, state and local income tax purposes.

8.9. Project Construction

The Borrower shall construct and complete the Project, and cause the Project to be constructed and completed consistent with Prudent Industry Practices.

8.10. Shipping and Sub-charter Arrangements

For so long as any Credit Agreement Designated Offtake Agreement to which the Borrower is a party is on Delivered terms, the Borrower shall comply with the following covenants:

- (a) The Borrower shall maintain the Required LNG Tanker Capacity under one or more Time Charter Party Agreements having a tenor not less than the tenor then-required so that the Borrower has the Required LNG Tanker Capacity for all such Credit Agreement Designated Offtake Agreements on a Delivered basis to which it is a party; provided, that, if one or more Time Charter Party Agreements has terminated, the Borrower shall enter into one or more additional Time Charter Party Agreements within 180 days following such termination to the extent necessary to meet the Required LNG Tanker Capacity. If at the end of such 180 day period, the Borrower is diligently pursuing one or more replacement Time

Charter Party Agreements, such period will be extended for an additional period (not to exceed ninety days) during which the Borrower reasonably expects to enter into such replacement Time Charter Party Agreements as long as the implementation of such extension could not reasonably be expected to result in a Material Adverse Effect.

- (b) All Time Charter Party Agreements entered into after the Closing Date shall be entered into on Market Terms **(pursuant to clause (b) of the definition thereof)**
- (c) If any Time Charter Party Agreement entered into after the Closing Date is for an LNG Tanker subject to a mortgage or other form of Lien, then the Borrower shall use commercially reasonable efforts to procure that the holder of such mortgage or Lien agree to customary quiet enjoyment rights in favor of the Borrower.
- (d) With respect to any Time Charter Party Agreement entered into after the Closing Date, the Borrower shall procure and maintain, or procure that the ship owner procures and maintains, customary protection and indemnity (P&I) insurance in respect of any LNG Tanker, which in any event shall not be less than as required by the relevant Credit Agreement Designated Offtake Agreement applicable to the LNG volumes for which the Time Charter Party Agreement was executed.
- (e) The Borrower shall ensure that any sub-charter agreement of an LNG Tanker entered into by the Borrower and any third party (the “**Sub-Charter Agreement**”):
 - (i) has terms and conditions that:
 - (A) are substantially the same as (1) the Time Charter Party Agreement in respect of such LNG Tanker or (2) the Time Charter Party for the Carriage of LNG form code named “SHELLLNGTIME 2”, in each case, on an arm’s length basis;
 - (B) would not result in the voiding of any charterer’s liability insurance obtained and maintained by the Borrower;
 - (C) would not otherwise result in a default by the Borrower that would give rise to a right of the vessel owner to terminate the applicable Time Charter Party Agreement in respect of such LNG Tanker;
 - (D) prohibit the sub-charterer from operating the applicable LNG Tanker within, or embarking or disembarking such LNG Tanker from, any Sanctioned Countries; and
 - (E) requires the relevant LNG Tanker to be redelivered to the Borrower in sufficient time ahead of the date by which the LNG Tanker is required to meet the Borrower’s shipping and delivery obligations under any of its Designated Offtake Agreements that are on a Delivered basis; and
 - (ii) is entered into with a sub-charterer who:
 - (A) is not a Restricted Person; and

- (B) has (1) the technical competence and experience in the chartering and employment of LNG Tankers in the international LNG Tanker chartering market and (2) the financial capability required to perform the obligations of a sub-charterer under the applicable sub-charter agreement.

8.11. Interest Rate Hedging

The Borrower shall, on or prior to 45 days following the Closing Date, enter into, and thereafter maintain, one or more Senior Secured IR Hedge Agreements with aggregate notional amounts (after giving effect to any Offsetting Transactions) in respect of each Quarterly Payment Date equal to or greater than 75% of the Projected Principal Amount of all Senior Secured Debt as of each such Quarterly Payment Date; provided, that, for purposes of calculating the foregoing percentage, (a) the principal balance of the Revolving Loans and any other Working Capital Debt shall be excluded, and (b) any Senior Secured Debt which bears a fixed interest rate shall be deemed subject to a Senior Secured IR Hedge Agreement.

8.12. Access; Inspection

- (a) The Borrower shall keep proper books of record in accordance with GAAP in all material respects and permit representatives and advisors of the P1 Administrative Agent, upon reasonable notice (but other than as required pursuant to Section 8.12(b)), no more than twice per calendar year (unless an Event of Default has occurred and is continuing), to examine, excerpts from its books, records and documents and to make copies thereof, all at such times during normal business hours as such representatives may reasonably request upon 30 days' advance notice.
- (b) Site visits to the Project may be conducted upon reasonable request by (i) the Independent Engineer and, if requested, the P1 Administrative Agent (or one alternative representative), or the Environmental Advisor, any such visits to be coordinated between the Independent Engineer, the P1 Administrative Agent, and the Environmental Advisor up to two times per calendar year, except to the extent additional visits may be reasonably required in connection with the occurrence of an Event of Default and (ii) any Consultant to the extent reasonably required for such Consultant to witness any testing or otherwise in connection with or to provide any report, certificate, or confirmation explicitly contemplated by the terms of the P1 Financing Documents. Site visits shall only be conducted during normal business hours, in a manner that does not unreasonably disrupt the construction or operation of the Project in any respect, and subject to the confidentiality provisions of Section 15.15 (*Termination of Certain Information; Confidentiality*) of the Collateral and Intercreditor Agreement or analogous confidentiality restrictions required by the Borrower and observance of all applicable environmental, health and safety, and industrial site visit policies.

8.13. Survey

The Borrower shall, no later than 120 days following the Term Conversion Date, deliver to the P1 Administrative Agent the "as built" Survey.

8.14. Allocation of Prepayment of Replacement Debt and Supplemental Debt

Any prepayment of the principal of Replacement Debt or Supplemental Debt must be made on *apro rata* basis with the prepayment of principal of the Senior Loans.

8.15. Appointment of Delegates

The Borrower shall ensure at all times that a Delegate of the Borrower that is not an Administrator Affiliate, a Coordinator Affiliate, an Operator Affiliate, or a Pipeline Manager Affiliate is appointed to each of the Facility Committee and Executive Committee.

8.16. Certain Matters in Respect of the P1 Accounts

- (a) The Borrower shall apply amounts on deposit in the P1 Capital Improvement Account (as defined in the P1 Accounts Agreement) solely to the payment of RCI EPC CAPEX and RCI Owners' Costs (as each such term is defined in the Definitions Agreement) in respect of Permitted Capital Improvements or as otherwise permitted by the P1 Accounts Agreement.
- (b) The Borrower shall not apply amounts remaining in the P1 Construction Account in accordance with Sections 3.1(f)(iii) and 3.1(g) (*P1 Construction Account*) of the P1 Accounts Agreement to the prepayment of any other Senior Secured Debt prior to the Credit Agreement Discharge Date.
- (c) The Borrower shall not utilize Loss Proceeds to fund Restoration Work in accordance with Section 9.2(b) (*Loss Proceeds*) of the Collateral and Intercreditor Agreement unless it first complies with Schedule 8.16(c).
- (d) For purposes of the definition of "DSRA Reserve Amount" set forth in the P1 Accounts Agreement, the amount required to be funded pursuant to this Agreement shall be the Credit Agreement Debt Service Reserve Amount.

8.17. Flood Insurance

- (a) With respect to all P1 Mortgaged Property Interests located in a Special Flood Hazard Area, the Borrower will obtain and maintain (or cause to be obtained and maintained) at all times flood insurance for all Collateral located on such property as may be required under the Flood Program and will provide (or cause to be provided) to each Senior Lender evidence of compliance with such requirements as may be reasonably requested by such Senior Lender. The timing and process for delivery of such evidence will be as set forth in Section 10.3(a) with respect to the underlying insurance policy within which such flood insurance is obtained. If any Building (as defined in the applicable flood insurance regulations) or Manufactured (Mobile) Home (as defined in the applicable flood insurance regulations) constitutes property that is secured for the benefit of the Credit Agreement Senior Secured Parties pursuant to the P1 Deed of Trust, the Borrower will maintain (or cause to be maintained) in full force and effect flood insurance for such property, structures, and contents in such amount and for so long as required by applicable flood insurance regulation. For the avoidance of doubt, the insurance set forth in the Insurance Program will be deemed to satisfy the requirements of this Section 8.17(a). Notwithstanding anything to the contrary

herein, if the Borrower maintains (or causes to be maintained) flood insurance under its operational property insurance, such insurance need not:

- (i) be issued by licensed, admitted or surplus lines insurers;
 - (ii) include a 45 day cancellation requirement/renewal notice requirement;
 - (iii) include cancellation provisions as restrictive as those in the standard flood insurance policy issued in accordance with the Flood Program; or
 - (iv) include any requirement that the Borrower file (or cause to be filed) suit within one year after the date of written denial of all or part of a claim. However, such insurance shall meet the standards for discretionary acceptance under the regulations for the Biggert-Waters Flood Insurance Reform Act of 2012, being:
 - (A) the policy provides coverage in sufficient amount under the National Flood Insurance Program created by the US Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004 and any successor statutes (the "**Flood Program**");
 - (B) the policy is from a carrier(s) that are licensed, admitted, or not disapproved by a state insurance regulator;
 - (C) the policy covers the Borrower and the applicable Credit Agreement Senior Secured Parties; and
 - (D) the policy provides sufficient protection of the designated loan, consistent with general safety and soundness principles.
- (b) The Borrower shall provide (or cause to be provided) 45 days prior notice (or, if within 45 days of the Closing Date, on the Closing Date) to the P1 Administrative Agent before it commences construction of any Building (as defined in the applicable flood insurance regulations) and before it affixes any Manufactured (Mobile) Home (as defined in the applicable flood insurance regulations) to any property that is secured for the benefit of the Credit Agreement Senior Secured Parties pursuant to a deed of trust required under the P1 Financing Documents and that is located in a special flood hazard area (as defined pursuant to applicable flood insurance regulation). The preceding sentence will not affect the obligations of the Borrower under this Section 8.17 to maintain (or cause to be maintained) flood insurance.
- (c) The Borrower will, if requested by a Senior Lender, provide (or cause to be provided) 45 days prior written notice (or, if within 45 days of the Closing Date, on the Closing Date) to the P1 Administrative Agent before it acquires any real property that will be secured for the benefit of the Credit Agreement Senior Secured Parties pursuant to the P1 Deed of Trust.
- (d) The Borrower shall:

- (i) deliver (or cause to be delivered) on the Closing Date a completed “Standard Flood Hazard Determination Form” of FEMA and any successor Government Authority performing a similar function (a “**Flood Certificate**”) with respect to the P1 Mortgaged Property, which Flood Certificate shall:
 - (A) be addressed to the P1 Administrative Agent;
 - (B) provide for “life of loan” monitoring; and
 - (C) otherwise comply with the Flood Program; and
- (ii) if the Flood Certificate states that any structure comprising a portion of the anticipated P1 Mortgaged Property will be located in a special flood hazard area (as defined pursuant to applicable flood insurance regulations), the Borrower shall provide (or cause to be provided) written acknowledgment upon receipt of written request from the P1 Administrative Agent and any Senior Lender:
 - (A) as to the existence of such P1 Mortgaged Property; and
 - (B) as to whether the community in which such P1 Mortgaged Property will be located is participating in the Flood Program;

provided, that, in the case of (i) and (ii), the Borrower may instead provide (or cause to be provided) alternative flood documentation, in a form and manner to be reasonably agreed between the Borrower and the applicable Senior Lender requesting the relevant flood insurance documentation prior to the delivery date set forth above as long as the alternative flood documentation complies with applicable law.

8.18. Post-Closing Deliverables

The Borrower shall deliver, or cause to be delivered, to the P1 Administrative Agent, in form and substance reasonably satisfactory to P1 Administrative Agent, the items described on Schedule 8.18 on or before the dates specified with respect to such items, or such later dates as may be agreed to by the P1 Administrative Agent in its reasonable discretion.

8.19. Intellectual Property

The Borrower shall obtain and maintain, or use commercially reasonable efforts to cause third parties to obtain and maintain, as allowed pursuant to Government Rule, all licenses, trademarks, or patents necessary for the Development, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.

9. NEGATIVE COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in Article 5 (*Negative Covenants*) of the Common Terms Agreement and each of the following supplemental obligations set forth in this Article 9 in favor and for the

benefit of the P1 Administrative Agent, each Senior Lender, and the Revolving LC Issuing Bank.

9.1. Nature of Business

The Borrower shall not engage in any business or activities other than the Permitted Business.

9.2. Fundamental Changes

- (a) The Borrower shall not change its legal form without providing the P1 Administrative Agent with at least thirty days' prior notice.
- (b) The Borrower shall not amend its Organic Documents other than (i) any amendments solely to reflect permitted sales or transfers of Equity Interests in the Borrower, (ii) immaterial amendments, and (iii) any amendments that are not, in any material respect, adverse to the interests of the Senior Lenders or the Borrower's ability to comply with the P1 Financing Documents.

9.3. Asset Sales

- (a) The Borrower shall not convey, sell, lease, transfer, or otherwise dispose of, in one transaction or a series of transactions, any assets in excess of \$100,000,000 per year except: (i) dispositions of assets in compliance with any applicable court or governmental order, (ii) any capacity release contemplated by the Precedent Agreement Administration Agreement, (iii) sales or other dispositions of assets no longer used or useful in the Borrower's business in the ordinary course of the Borrower's business and that could not reasonably be expected to result in a Material Adverse Effect, (iv) non-exclusive licenses, covenants not to sue, releases, waivers or other rights under intellectual property, in each case, granted in the ordinary course of business in connection with the construction or operation of the Project as contemplated by the Credit Agreement Transaction Documents, (v) dispositions of other Property if the Borrower has obtained a binding commitment to replace such Property, and replaces such Property, within 270 days after such disposition, (vi) sales or other dispositions of (A) LNG, Gas, or natural gas liquids (or other commercial products) in accordance with the Project Documents, (B) any LNG in accordance with Section 9.14 or Gas in the ordinary course of business, and (C) NGLs and other petroleum by-products of liquefaction, (vii) payments, transfers, or other dispositions of cash or Cash Equivalents in accordance with the Project Documents to the extent such payment, transfer or other disposition is made in accordance with the P1 Accounts Agreement and the Common Accounts Agreement, (viii) sales, transfers, or other dispositions of Permitted Investments in accordance with the P1 Accounts Agreement and the Common Accounts Agreement, (ix) Distributions made in accordance with the P1 Financing Documents, (x) sales of liquefaction and other services in the ordinary course of business, (xi) transfers or novations of Senior Secured Hedge Agreements in accordance with Section 9.5 of this Agreement or Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement, (xii) disposals of materials developed or obtained in the excavation or other operations of P1 EPC Contractor pursuant to Section 3.22 (*Title to Materials Found*) of a P1 EPC Contract, (xiii) settlements, releases, waivers or surrenders of contract, tort or other claims in the ordinary course of business or grants of Liens

not prohibited by the P1 Financing Documents, (xiv) conveyances of gas interconnection or metering facilities to gas transmission companies and conveyances of electricity substations to electricity providers pursuant to its electricity purchase arrangements for operating the Rio Grande Facility, and (xv) the AEP Land Release.

- (b) The Borrower shall not permit the Project or any material portion thereof to be removed, demolished or materially altered, unless (i) such material portion that has been removed, demolished or materially altered has been replaced or repaired as permitted under the CFAA, or (ii) such removal or alteration is (A) in accordance with Prudent Industry Practices (as certified by the Independent Engineer) and could not reasonably be expected to result in a Material Adverse Effect or (B) required by applicable Government Rule.
- (c) For the avoidance of doubt, if any sale, transfer, assignment, distribution, conveyance, lease or other disposition is permitted under Section 5.3 (*Asset Sales*) of the Common Terms Agreement but disallowed pursuant to this Section 9.3, such sale, transfer, assignment, distribution, conveyance, lease or other disposition shall not be permitted prior to the Credit Agreement Discharge Date.

9.4. Restrictions on Indebtedness

- (a) Debt Incurrence. For purposes of this Section 9.4, Senior Secured Debt shall be deemed “incurred” upon (i) the execution of the Senior Secured Debt Instruments in respect thereof ~~and the~~ **(irrespective of the** satisfaction or waiver of the conditions precedent thereunder to the initial disbursement thereof or initial issuance of letters of credit thereunder) or (ii) any subsequent Economic Terms Modification.
- (b) Credit Agreement Permitted Indebtedness. The Borrower shall not directly or indirectly create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to any Indebtedness other than Credit Agreement Permitted Indebtedness; provided, that the provisions of Sections 5.4(c)-(e) (~~Restrictions on Indebtedness~~) of the Common Terms Agreement shall not apply to this Section 9.4.
- (c) Replacement Debt.
 - (i) The Borrower shall not incur Replacement Debt prior to the Credit Agreement Maturity Date unless each of the conditions in Section 2.4 (*Replacement Debt*) of the Common Terms Agreement are complied with and:
 - (A) no Event of Default has occurred and is continuing or could reasonably be expected to occur after giving effect to and as a result of the incurrence of the Replacement Debt;
 - (B) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Replacement Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal

Quarter) through the expiration of the term of the Notional Amortization Period shall not be less than 1.40:1.00; provided, that for purposes of this Section 9.4(c) the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume, if such Replacement Debt is incurred prior to the Term Conversion Date, that all Senior Secured Debt Commitments will be fully drawn;

- (C) the weighted average life to maturity of the Replacement Debt shall be longer than the weighted average life to maturity of the Construction/Term Loans being replaced prior to the incurrence of such Replacement Debt;
 - (D) the final maturity date of the Replacement Debt shall occur after the Credit Agreement Maturity Date; and
 - (E) such Replacement Debt is denominated in Dollars.
- (ii) The Borrower shall not cancel the commitments in respect of Replacement Debt unless the funds under the cancelled commitment are not reasonably expected to be necessary to achieve the Project Completion Date by the Date Certain (as confirmed by the P1 Administrative Agent in consultation with the Independent Engineer).
- (iii) All proceeds of Replacement Debt shall be applied to the mandatory prepayment of the Construction/Term Loans in accordance with Section 4.10(a)(iii) prior to the application thereto to any other Replacement Debt or any Supplemental Debt; provided, that, from and after April 1, 2025, such amount in this clause (c) shall be allocated on *apro rata* basis between the outstanding Construction/Term Loans hereunder and the outstanding "Construction/Term Loans" under and as defined in the TCF Credit Agreement and the amount of Construction/Term Loans prepayable hereunder will be reduced accordingly. The Borrower shall not incur any Replacement Debt or Supplemental Debt that would result in an inability to comply with this Section 9.4(c)(iii).
- (d) Relevering Debt. Notwithstanding Section 2.5 (*Relevering Debt*) of the Common Terms Agreement, the Borrower shall not incur Relevering Debt prior to the Credit Agreement Discharge Date other than Reinstatement Debt.
- (e) Working Capital Debt. The Borrower shall not incur Working Capital Debt (other than Working Capital Debt incurred under this Agreement) prior to the Credit Agreement Maturity Date unless no Default or Event of Default has occurred and is continuing or could reasonably be expected to occur after giving effect to and as a result of the incurrence of the Working Capital Debt and such Working Capital Debt is denominated in Dollars. Prior to the Credit Agreement Maturity Date, the Borrower shall not incur Working Capital Debt in excess of \$3,000,000,000 (including the Working Capital Debt incurred under this Agreement).

- (f) Supplemental Debt. The Borrower shall not incur Supplemental Debt prior to the Credit Agreement Maturity Date unless each of the conditions in Section 2.6 (*Supplemental Debt*) of the Common Terms Agreement are complied with and:
- (i) no Default or Event of Default has occurred and is continuing or could reasonably be expected to occur after giving effect to and as a result of the incurrence of the Supplemental Debt;
 - (ii) the aggregate principal amount of all Supplemental Debt (other than Funding Shortfall Debt) at any time outstanding does not exceed \$400,000,000;
 - (iii) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Supplemental Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the Notional Amortization Period shall not be less than 1.45:1.00; provided, that, for purposes of this Section 9.4(f), the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume that all commitments for Supplemental Debt will be fully drawn as of the date on which such Supplemental Debt is incurred;
 - (iv) the weighted average life to maturity of the Supplemental Debt shall be longer than the weighted average life to maturity of the then outstanding Construction/Term Loans prior to the incurrence of such Supplemental Debt;
 - (v) the final maturity date of the Supplemental Debt shall occur after the Credit Agreement Maturity Date; and
 - (vi) such Supplemental Debt is denominated in Dollars.
- (g) Terms of Senior Secured Debt Instruments. In addition to the requirements set forth in the Common Terms Agreement, concurrently with the certificate of the Borrower provided in accordance with Section 2.3(d) (*Working Capital Debt*), Section 2.4(c) (*Replacement Debt*), Section 2.5(c) (*Relevering Debt*), and Section 2.6(c) (*Supplemental Debt*) of the Common Terms Agreement, the Borrower shall deliver to the P1 Administrative Agent a copy of each proposed Senior Secured Debt Instrument relating to the relevant Senior Secured Debt (which may be an amendment to an existing Senior Secured Debt Instrument), which copy shall disclose the material terms, permitted uses, and the tenor and amortization schedule of such Senior Secured Debt and the rate, or the rate basis and margin in the case of a floating rate, at which such Senior Secured Debt shall bear interest, and (if applicable) commitment fees or other premiums relating thereto.
- (h) Executed Copies of Senior Secured Debt Instruments.
- (i) Concurrently with the delivery of each Common Terms Accession Agreement and CIA Accession Confirmation pursuant to Section 2.7 (*Accession Agreements*) of the Common Terms Agreement, the Borrower

shall deliver to the P1 Administrative Agent a copy of the relevant duly executed Senior Secured Debt Instrument.

- (ii) The Borrower shall promptly provide to the P1 Administrative Agent copies of all amendments, modifications and waivers to any Senior Secured Debt Instrument; provided, that such amendments, modifications and waivers shall only be made in accordance with terms and conditions set forth in the Collateral and Intercreditor Agreement and the relevant Senior Secured Debt Instrument.
- (i) Notwithstanding anything set forth in this Agreement to the contrary, the Borrower may incur Replacement Debt, Relevering Debt, or Supplemental Debt if all Senior Loans and Revolving LCs, in each case, outstanding immediately prior to the incurrence thereof will be repaid in full or returned and cancelled, as the case may be, and all remaining available Senior Loan Commitments are terminated.
- (j) The Borrower shall not incur any Indebtedness to fund the development of any Train Facility (as defined in the Definitions Agreement) other than the P1 Train Facilities without the consent of all Senior Lenders.
- (k) For the avoidance of doubt, (i) if the incurrence of any Indebtedness is permitted under the Common Terms Agreement (including pursuant to Section 5.4 (*Restrictions on Indebtedness*), Section 2.3 (*Working Capital Debt*), Section 2.4 (*Replacement Debt*), Section 2.5 (*Relevering Debt*), or Section 2.6 (*Supplemental Debt*) of the Common Terms Agreement) but disallowed pursuant to this Section 9.4, such incurrence shall not be permitted prior to the Credit Agreement Discharge Date (ii) TCF Senior Loans, CD Senior Notes, and any Extension Amendment (as such term is defined in the TCF Credit Agreement) shall not be deemed to be a "Replacement Debt", "Relevering Debt", or "Supplemental Debt" and shall be deemed permitted under this Agreement.

9.5. Interest Rate Hedging Agreements

The Borrower shall not permit the aggregate notional amounts (after giving effect to any Offsetting Transactions) under the Senior Secured IR Hedge Agreements in respect of any Quarterly Payment Date to exceed at any time, except for a period of no more than 45 consecutive days immediately following any prepayment of any Senior Secured Debt, 110% of the Projected Principal Amount of all Senior Secured Debt on such Quarterly Payment Date; provided, that, for purposes of calculating the foregoing percentages, (a) the principal balance of the Revolving Loans and any other Working Capital Debt shall be excluded, and (b) any Senior Secured Debt which bears a fixed interest rate shall be deemed subject to a Senior Secured IR Hedge Agreement.

9.6. Transactions with Affiliates

- (a) The Borrower will not, directly or indirectly, enter into any Affiliate Transaction except: (i) (A) the Project Documents in existence on the Closing Date, (B) any Affiliate Transactions required or contemplated by such Project Documents, and (C) any amendments to or replacements of such contracts, agreements or understandings referenced in this clause (i); (ii) to the extent required by Government Rules or Government Approvals; (iii) upon terms no less favorable

to the Borrower than would be obtained in a comparable arm's-length transaction with a Person that is not an Affiliate (based on then-current market conditions for transactions of a similar nature and duration and taking into account such factors as the characteristics of the goods and services, the market for such goods and services (including any applicable regulatory conditions), tax effects of the transaction, the location of the Project and the counterparties), or, if no comparable arm's-length transaction with a Person that is not an Affiliate is available, then on terms reasonably determined by the Borrower to be fair and reasonable; (iv) in respect of Permitted Subordinated Debt; (v) any officer or director indemnification agreement or any similar arrangement entered into by the Borrower in the ordinary course of business and payments pursuant thereto; (vi) any sale of Credit Agreement Supplemental Quantities of LNG; (vii) Distributions made in accordance with the P1 Financing Documents; and (viii) any Sub-Charter Agreements.

- (b) For the avoidance of doubt, if the entering into of any Affiliate Transaction is permitted under Section 5.11 (*Transactions with Affiliates*) of the Common Terms Agreement but disallowed pursuant to this Section 9.6, such Affiliate Transaction shall not be permitted prior to the Credit Agreement Discharge Date.

9.7. Involuntary Liens of RG Facility Entities

The Borrower will not permit any Involuntary Liens to exist upon the Properties of any RG Facility Entity, other than such Involuntary Liens that are RG Facility Entity Permitted Liens.

9.8. Energy Regulatory

The Borrower shall not be or become (nor shall it permit any RG Facility Entity to be or become) subject to regulation (a) as a "natural-gas company" as such term is defined in the Natural Gas Act except to the extent that the Borrower (or any RG Facility Entity) is considered so when offering transportation services solely for the purpose of releasing firm transportation capacity on Rio Bravo Pipeline, LLC or other interstate natural gas pipeline, (b) under PUHCA, (c) as a "public utility," as defined in the Federal Power Act, (d) under PURA or the PUCT Substantive Rules of the State of Texas as a "public utility," or an "electric utility", or be subject to rate regulation in the same manner as an "electric utility," "public utility," "retail electric provider," "power marketer" or "transmission and distribution utility," or (e) as a "gas utility" or be subject to rate regulation in the same manner as a "gas utility" pursuant to GURA.

9.9. Use of Proceeds

- (a) The Borrower shall not apply the proceeds of the Construction/Term Loans other than for the purposes set forth in Section 2.1(d).
- (b) The Borrower shall not apply the proceeds of the Revolving Loans other than for the purposes set forth in Section 2.6(d).

9.10. Distributions

- (a) The Borrower will not make or agree to make, directly or indirectly, any Distributions (other than Extraordinary Distributions) unless on the Distribution Date each of the following conditions has been satisfied:
 - (i) No Default or Event of Default has occurred and is continuing;
 - (ii) (A) no actual LNG Sales Mandatory Prepayment Event or Unmatured LNG Sales Mandatory Prepayment Event has occurred and is continuing as of the date of the proposed Distribution in respect of which the prepayment or cancellation of Senior Secured Debt, if any, required by the occurrence of such event pursuant to Section 8.5(b) has not been made in full or (B) P1 Distribution Collateral has been provided to the P1 Collateral Agent in an amount equal to the lesser of (1) the amount of the Distribution that is proposed to be made and (2) the maximum amount that would be mandatorily payable pursuant to Section 8.5(b) as a result of the relevant LNG Sales Mandatory Prepayment Event, that will be drawn or called and deposited in cash in accordance with the P1 Accounts Agreement by the Borrower in the event that a mandatory prepayment of Senior Secured Debt is triggered pursuant to Section 8.5(b) if the Borrower does not have sufficient cash available pursuant to Section 3.11(f) (*P1 Debt Prepayment Account*) of the P1 Accounts Agreement to make such mandatory prepayment;
 - (iii) (A) the Historical DSCR as of the Fiscal Quarter most recently ended is at least 1.25:1.00 and (B) the Credit Agreement Projected DSCR for the next four Fiscal Quarter period is at least 1.25:1.00;
 - (iv) the CD Senior Loan DSRA is funded in accordance with the P1 Accounts Agreement in an amount equal to or greater than its then-required DSRA Reserve Amount;
 - (v) the Term Conversion Date has occurred; and
 - (vi) the Borrower shall have delivered to the P1 Administrative Agent a certificate of an Authorized Officer of the Borrower (A) to the effect that all conditions for a Distribution in Section 5.10 (*Distributions*) of the Common Terms Agreement and this Section 9.10 has been satisfied and (B) setting forth in reasonable detail the calculations for computing each of the Historical DSCR and the Credit Agreement Projected DSCR for the relevant periods in clause (iii) above.
- (b) The Borrower will not make or agree to make, directly or indirectly, (i) any Pre-Completion Revenue Distributions unless on the Distribution Date (A) the Pre-Completion Distribution Release Conditions (as defined in the P1 Accounts Agreement) and (B) the CD Pre-Completion Distribution Release Conditions have been satisfied or waived, (ii) any Extraordinary Distributions contemplated by clause (e) of the definition thereof with respect to Extraordinary Distributions under clause (e) of the definition of P1 Project Costs unless as of the Distribution Date, the conditions precedent in Section 7.2 and Section 7.4 have been satisfied or waived, or (iii) any Extraordinary Distributions contemplated by clause (i) of

the definition of P1 Project Costs unless, after giving pro-forma effect to such Extraordinary Distribution, no funding shortfall in the Construction Budget and Schedule would occur as a result of such Extraordinary Distribution.

- (c) For the avoidance of doubt, if any Distribution is permitted under Section 5.10 (*Distributions*) of the Common Terms Agreement but disallowed pursuant to this Section 9.10, such Distribution shall not be permitted prior to the Credit Agreement Discharge Date.

9.11. [Reserved]

9.12. RG Facility Entity Voting

The Borrower shall not exercise any voting, consent, or other rights or powers in respect of its Equity Interests in any RG Facility Entity in a way so as to allow such RG Facility Entity to:

- (a) change its legal form, amend its limited liability company agreement or any other constitutive document, merge into or consolidate with, or acquire (in one transaction or series of related transactions) all or any portion of any business, any Equity Interests in or any material part of the assets or property of any other Person or liquidate, wind up, reorganize, terminate or dissolve;
- (b) engage in any business or activities other than the development, engineering, construction, commissioning, operation and maintenance of the Rio Grande Facility and expansions to or modifications of the Rio Grande Facility and any activities incidental thereto made in accordance with the Credit Agreement Transaction Documents to which such Person is a party;
- (c) dispose of, in one transaction or a series of transactions, any portion of the Land or any lease, easement or other interest in the Land that is material to the development, engineering, construction, commissioning, operation or maintenance of the Rio Grande Facility;
- (d) dispose of, in one transaction or a series of transactions, any portion of the Common Facilities or any other Properties or assets of any RG Facility Entity, other than (i) sales or other dispositions of assets comprising the Common Facilities or such other Properties or assets that are no longer used or useful in the business of the Rio Grande Facility in the ordinary course of the Rio Grande Facility's business and that could not reasonably be expected to result in a Material Adverse Effect, (ii) any dividend or other distribution by the RG Facility Entity (in cash or Cash Equivalents) in accordance with the Facility Subsidiary Document of such RG Facility Entity, including proceeds CFCo receives from any other Liquefaction Owner pursuant to Section 12.3 (*Contributions to CFCo*) or Section 14.4.4 (*Mandatory Capital Improvements*) of the CFAA, (iii) dispositions of any insurance proceeds received by InsuranceCo in accordance with the CFAA and the other Project Documents, or (iv) any other payments, transfers, or other dispositions of cash or Cash Equivalents made in accordance with the Project Documents and Permitted Investments to the extent so paid, transferred, or disposed of in accordance with the Common Accounts Agreement;

- (e) suspend, cancel, or terminate any Material Government Approval applicable to such RG Facility Entity or consent to or accept any cancellation or termination thereof;
- (f) suspend, cancel, or terminate any Facility Easement Agreement or other agreement granting interests in the Land to the Borrower or consent to or accept any cancellation or termination thereof;
- (g) propose or consent to any amendment of any material provision of the LandCo Site Lease or the Common Facilities Sublease in an adverse manner;
- (h) directly or indirectly create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to any Indebtedness other than (i) Indebtedness of the types specified in clauses (c), (e), (f), (h), (i), (k), and (l) of the definition of Credit Agreement Permitted Indebtedness in each case, individually or in the aggregate of \$50,000,000 for all RG Facility Entities and (ii) to the extent constituting Indebtedness, any Indebtedness under any Material Project Document, the Facility Easement Agreements, the Tug Services Agreement (or any similar agreement or arrangement for the provision of tug services), the Train Facility Subleases, or the Common Facilities Sublease.
- (i) (other than as required or expressly permitted under the Credit Agreement Transaction Documents) create, assume, incur, permit, or suffer to exist any Lien upon the property of such RG Facility Entity, whether now owned or hereafter acquired, except for RG Facility Entity Permitted Liens;
- (j) take any action in respect of a Common Account that is not permitted by the P1 Financing Documents;
- (k) employ any employees;
- (l) sponsor, maintain, administer, or have any obligation to contribute to, or any liability under any defined benefit pension plan subject to Title IV of ERISA or Section 412 of the Code or any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA or plan that provides for post-retirement welfare benefits;
- (m) acquire any class of stock of (or other Equity Interest in) another Person;
- (n) (other than (x) the entry by InsuranceCo into any contract, undertaking, or agreement contemplated by the Insurance Program and (y) the entry into any Material Project Documents, the Facility Easement Agreements, the Tug Services Agreement (or any similar agreement or arrangement for the provision of tug services), the Train Facility Subleases, or the Common Facilities Sublease) enter into any contract, undertaking, agreement or other instrument (i) providing for payments or revenue receipts by any RG Facility Entity in excess of \$10,000,000 in any twelve-month period or (ii) a termination of which could reasonably be expected to result in a Material Adverse Effect;
- (o) contest or disaffirm the enforceability of any RG Facility Agreement;

- (p) open or become the beneficiary of any bank account other than as permitted by the RG Facility Agreements or the Common Accounts Agreement;
- (q) change its accounting or financial reporting policies other than as permitted in accordance with GAAP; or
- (r) delegate any of the Borrower's voting rights under any Facility Subsidiary Document to any other Person other than the P1 Intercreditor Agent in the event of an Enforcement Action (as defined in the Collateral and Intercreditor Agreement).

For the avoidance of doubt, if any vote, consent or other right is permitted under Section 5.12 *RG Facility Entity Voting*) of the Common Terms Agreement but disallowed pursuant to this Section 9.12, such vote, consent or other right shall not be permitted prior to the Credit Agreement Discharge Date.

9.13. Material Project Documents

- (a) The Borrower shall not:
 - (i) sell, transfer, assign or otherwise dispose of (by operation of law or otherwise) or consent to any such sale, transfer, assignment or disposition of its interest in or rights or obligations under any Material Project Document except (A) assignments pursuant to the Senior Security Documents and (B) assignments pursuant to the Precedent Agreement Administration Agreement;
 - (ii) consent to any sale, transfer, assignment or disposition of any Material Project Party's interest in or rights or obligations under any Material Project Document (if the Borrower has such consent rights under the applicable Material Project Document) except for (A) as could not reasonably be expected to have a Material Adverse Effect, (B) any assignments and transfers permitted or contemplated in the P1 Collateral Documents, and (C) assignments by a counterparty to its Affiliate as contemplated in, and in accordance with the terms of, the applicable Material Project Document;
 - (iii) approve any Major Decision;
 - (iv) initiate or settle an arbitration proceeding under any Material Project Document unless the initiation or settlement of such arbitration proceeding could not reasonably be expected to have a Material Adverse Effect or an Event of Default; or
 - (v) agree to any amendment or modification, or waiver of, or waiver relating to any Material Project Document to which it is a party that could reasonably be expected to have a Material Adverse Effect; provided, that (A) Change Orders not prohibited by Section 9.13(d) shall in any case be permitted and (B) amendments or modifications to, or waivers under, Qualified Credit Agreement Designated Offtake Agreements as permitted under Section 9.13(b) shall in any case be permitted.

- (b) The Borrower shall not agree to:
- (i) any amendment or modification of the price or quantity provisions of any Credit Agreement Designated Offtake Agreement:
 - (A) if such amendment or modification results in a breach of Section 9.14(a); and
 - (B) unless after giving effect to such amendment or modification, (excluding principal amounts and commitments in respect of any Working Capital Debt) the Credit Agreement Projected DSCR for the period starting from the first Quarterly Payment Date for the repayment of principal after the date of such amendment or modification to the end of the calendar year in which such Quarterly Payment Date occurs, and for each calendar year thereafter through the Latest Qualified Term of the Credit Agreement Designated Offtake Agreements in effect at such time, is at least 1.45:1.00; or
 - (ii) any amendment or modification of any Credit Agreement Designated Offtake Agreement that:
 - (A) could reasonably be expected to have a Material Adverse Effect;
 - (B) would not be on Market Terms with respect to the Borrower; or
 - (C) would otherwise be materially inconsistent with the terms of the P1 Financing Documents.
- (c) Unless required or contemplated by (x) a Material Project Document to which it is a party (including any replacement or substitute Material Project Document and any guarantee thereof), (y) this Agreement, or (z) any other P1 Financing Document, the Borrower shall not enter into any Additional Material Project Document without the prior written consent of the Majority Senior Lenders; provided, that such consent will not be required if such Additional Material Project Document is:
- (i) substantially in the form of such agreement (or an equivalent agreement) in place as of the Closing Date;
 - (ii) a Credit Agreement Designated Offtake Agreement (and any guaranty thereof) that meets the conditions in Section 8.5 or any other Offtake Agreement permitted by Section 9.14;
 - (iii) a Time Charter Party Agreement (other than the Initial Time Charter Party Agreements) that meets the conditions set forth in Section 8.10;
 - (iv) entered into by the Borrower in connection with a Capital Improvement permitted by Section 9.15 and Section 5.14 (*Capital Improvements*) of the Common Terms Agreement; and
 - (v) the APCI License Agreement.

- (d) The Borrower shall not, nor shall it permit the P1 CASA Advisor to, except for Change Orders specified in Schedule 9.13(d), without the consent of the P1 Administrative Agent (upon the approval of the Majority Senior Lenders in consultation with the Independent Engineer), initiate or consent to any Change Order or Change Directive (as defined in the P1 EPC Contracts) that:
- (i) increases the aggregate contract price payable under the P1 EPC Contracts as of the Closing Date; provided, that:
- (A) the Borrower may, subject to the remainder of this Section 9.13(d), enter into any Change Order or make payment of any claim under the P1 EPC Contracts, if (1) the P1 Administrative Agent has received an IE Confirming Certificate and (2) the amount of such Change Order is equal to or less than \$50,000,000 (taking into account increases and decreases within such Change Order on a net basis and calculated, in the case of a Change Order arising due to loss or damage to Project assets, after taking into account insurance proceeds reasonably expected to be available under its insurance policies to cover such loss or damage and permitted to be so applied in accordance with the terms of the P1 Financing Documents) so long as the aggregate amount of all Change Orders under this clause (A) (taken together on a net basis) does not exceed \$500,000,000;
- (B) if the P1 EPC Contractor requests a Required EPC Change Order to which it is entitled under the terms of a P1 EPC Contract then, subject to the remainder of this Section 9.13(d), the Borrower shall be entitled to authorize such change without first obtaining the consent of the P1 Administrative Agent if the amount of such change is within the remaining Contingency set forth in the Construction Budget and Schedule, or to the extent that such amount exceeds such remaining Contingency, (x) the aggregate commitment under the P1 Equity Contribution Agreement has been irrevocably and unconditionally increased in the amount at least sufficient to cover such excess amount or (y) the Borrower certifies to the P1 Administrative Agent that it reasonably expects to have (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, committed equity, and projected Contracted Revenues under the Credit Agreement Designated Offtake Agreements) sufficient funds in addition to those already set forth in the then current Construction Budget and Schedule for such excess amount; and
- (C) the Borrower may enter into any Change Order under the P1 EPC Contracts for amounts in excess of the amounts specified in Section 9.13(d)(i)(A) but subject to the remainder of this Section 9.13(d); provided, that, with respect to this Section 9.13(d)(i)(C), (1) the P1 Administrative Agent has received an IE Confirming Certificate and (2) the amount of such change is within the remaining Contingency set forth in the Construction Budget and Schedule, or to the extent that such

amount exceeds such remaining Contingency, (x) the aggregate commitment under the P1 Equity Contribution Agreement has been irrevocably and unconditionally increased in the amount at least sufficient to cover such excess amount or (y) the Borrower certifies to the P1 Administrative Agent that it reasonably expects to have (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, and committed equity) sufficient funds in addition to those already set forth in the then current Construction Budget and Schedule for such excess amount;

- (ii) extends any Guaranteed Substantial Completion Date under and as defined in the P1 EPC Contracts to a date that could reasonably be expected to result in the failure by the Borrower to achieve Substantial Completion under each P1 EPC Contract by the Date Certain;
- (iii) except as otherwise permitted pursuant to the terms hereof or as a result of a Required EPC Change Order (provided, that the Independent Engineer concurs (which concurrence shall not be unreasonably withheld, conditioned or delayed) to the Borrower's consent to such Change Order pursuant to such P1 EPC Contract), modifies the Performance Guarantees of the P1 EPC Contractor pursuant to a P1 EPC Contract or the criteria or procedures for the conduct or measuring of the results of the performance tests under any P1 EPC Contract, in each case in a manner that could reasonably be expected to have a material adverse effect on the Borrower's ability to meet its LNG delivery obligations under each of its then-existing Credit Agreement Designated Offtake Agreements or otherwise have a material adverse effect on the ability of the Borrower to achieve the Term Conversion Date by the Date Certain;
- (iv) adjusts the payment schedule under any P1 EPC Contract or provides a bonus to be paid to the P1 EPC Contractor thereunder, other than if such changes are made to track changes in the payment schedule as a result of any Change Order that is (1) permitted under this Section 9.13(d) or (2) a Required EPC Change Order;
- (v) causes any material component or material design feature or aspect of the Project to materially deviate in any fundamental manner from the description thereof set forth in the schedules, exhibits, appendices or annexes to the P1 EPC Contracts (other than as the result of a Change Order which is permitted by Section 9.13(d)(i) above, any Required EPC Change Order, or otherwise permitted by this Agreement);
- (vi) (A) reduces the per-day nominal dollar value of any of the delay liquidated damages provisions or the per-percentage shortfall nominal dollar value of any of the performance liquidated damage provisions under such P1 EPC Contract or (B) waives or otherwise releases the P1 EPC Contractor from any liability to pay any such delay or performance liquidated damages which would otherwise be due and owing under such P1 EPC Contract (provided, that a Required EPC Change Order that the P1 EPC Contractor is entitled to under a P1 EPC Contract that modifies a Guaranteed

Substantial Completion Date (as defined in the applicable P1 EPC Contract) and that is in compliance with Section 9.13(d)(ii) shall not be deemed to violate this clause (B));

- (vii) waives or results in an adverse modification of the specific provisions under such P1 EPC Contract setting forth the terms of default, termination, or suspension or constitutes a waiver by the Borrower of any event that, with the giving of notice or the lapse of time or both, would entitle the Borrower to terminate the P1 EPC Contracts;
 - (viii) except as a result of a Required EPC Change Order, impairs the ability of the Project to satisfy the Minimum Acceptance Criteria or Performance Guarantees ~~and~~ under the P1 EPC Contracts;
 - (ix) results in the revocation or adverse modification of any Material Government Approval that could reasonably be expected to (A) impair the ability of the Project to satisfy the Minimum Acceptance Criteria or Performance Guarantees under the P1 EPC Contracts or to achieve Substantial Completion under and as defined in the P1 EPC Contracts by the Term Conversion Date or (B) materially adversely affect the Borrower's ability to satisfy its obligations under its Credit Agreement Designated Offtake Agreements; and
 - (x) cause the Borrower or the Project not to comply with Sections 8.4(b) and 8.7(a).
- (e) Notwithstanding anything to the contrary in the Common Terms Agreement or any other P1 Financing Document, any Guaranteed Substantial Completion Date (as defined in each P1 EPC Contract) shall not be modified by any Change Order unless the execution of such Change Order is permitted hereby or has been approved by the Majority Senior Lenders.
 - (f) The Borrower shall not provide its consent to the Pipeline Manager under Section 1, Section 2, or Section 3 of the Gas Supply Letter Agreement without the prior written consent of the P1 Administrative Agent.

9.14. Offtake Agreements

The Borrower shall not enter into any Offtake Agreements other than (a) Credit Agreement Designated Offtake Agreements and (b) Offtake Agreements in respect of Credit Agreement Supplemental Quantities of LNG of any duration, on any terms and to buyers of any credit quality so long as (i) each buyer thereunder is instructed to pay the proceeds of sales of LNG (A) prior to the Term Conversion Date, the P1 Pre-Completion Revenue Account and (B) after the Term Conversion Date, the P1 Revenue Account, and (ii) performance under such Offtake Agreement could not reasonably be expected to have a material adverse effect on the ability of the Borrower to meet its obligations under the Credit Agreement Designated Offtake Agreements.

9.15. Capital Improvements

- (a) Subject to Section 9.15(b) and notwithstanding anything to the contrary in Section 5.14 (*Capital Improvements*) of the Common Terms Agreement, the

Borrower shall not make any Discretionary Capital Improvements that are Major Capital Improvements or are funded by Supplemental Debt unless (i) (A) the plans and specifications of such Discretionary Capital Improvement have been reviewed and confirmed reasonable by the Independent Engineer in the Capital Improvement IE Certificate and (B) the Independent Engineer confirms in the Capital Improvement IE Certificate that such Discretionary Capital Improvement could not reasonably be expected to have a material and adverse impact on the Project or (ii) such Capital Improvements constitute Restoration Work.

- (b) The Borrower may only fund Permitted Capital Improvements using (i) proceeds of Supplemental Debt, (ii) capital contributions or Permitted Subordinated Debt provided by the Pledgor or the Equity Owners that are in addition to the Cash Equity Financing, (iii) such funds on deposit in the **Distribution Account or the** P1 Distribution Reserve Account that are permitted to be distributed pursuant to Section 3.7 (*P1 Distribution Reserve Account*) of the P1 Accounts Agreement, (iv) subject to Section 8.16(c), Loss Proceeds, or (v) Indebtedness referred to in clause (m) of the definition of Credit Agreement Permitted Indebtedness. Prior to the commencement of work on such Permitted Capital Improvements, the Borrower shall provide evidence satisfactory to the P1 Administrative Agent that it has funds required to pay its allocated share of such Permitted Capital Improvements under the CFAA from the sources described in the previous sentence.

9.16. Material Government Approvals

The Borrower shall not amend or modify a Material Government Approval or any conditions thereof; provided, that the Borrower may amend or modify such Government Approvals and any conditions thereof so long as such amendment or modification could not reasonably be expected to have a Material Adverse Effect or result in the Impairment of the DOE Export Authorization.

9.17. Performance Tests

The Borrower shall not permit any Performance Test to be performed without giving the P1 Administrative Agent and the Independent Engineer at least five Business Days prior written notice of such Performance Test (or such shorter period as agreed by the Independent Engineer).

9.18. Historical DSCR

- (a) Together with the delivery of financial statements in accordance with Section 10.1(a) in respect of each full Fiscal Quarter occurring after the Initial Principal Payment Date, the Borrower shall calculate and deliver to the P1 Administrative Agent its calculation of the Historical DSCR.
- (b) The Borrower shall not permit the Historical DSCR as of the end of any Fiscal Quarter from and following the Initial Principal Payment Date to be less than 1.10 to 1.00; provided, that a failure to meet the required ratio as a result of a failure to maintain a Credit Agreement Designated Offtake Agreement shall be addressed pursuant to Section 8.5(a) and not pursuant this Section 9.18; provided, further, that, notwithstanding anything to the contrary herein or in any P1 Financing Document, if the Historical DSCR as of the end of any Fiscal Quarter following

the Initial Principal Payment Date is (or would be) less than 1.10 to 1.00, then any direct or indirect owner of the Borrower shall have the right to provide cash to the Borrower, not later than twenty Business Days following the date of delivery of the calculation of the Historical DSCR as required pursuant to Section 9.18(a) by (A) transferring from the Distribution Account to the P1 Revenue Account or (B) causing the Equity Owners to deposit in the P1 Revenue Account such amount as, when added to the otherwise applicable Cash Flow for purposes of calculating Historical CFADS for the applicable period, would cause the Historical DSCR for such period to equal or exceed 1.10 to 1.00 (and upon such transfer or deposit, any default under this Section 9.18(b) shall be deemed immediately cured) ~~(provided,~~ that the Borrower shall not have the right to cure a default of this Section 9.18(b) by operation hereof in respect of more than four Fiscal Quarters in aggregate over the term of the Senior Loans).

9.19. Accounts

The Borrower shall not open or maintain, or permit or instruct any other Person to open or maintain on its behalf, or use or be the beneficiary of any account other than the P1 Accounts, the Common Accounts, **and the Distribution Account (if applicable).**

9.20. GAAP

The Borrower shall not change its Fiscal Year without the prior written consent of the P1 Administrative Agent. The Borrower shall not change its accounting or financial reporting policies other than as permitted in accordance with GAAP.

9.21. Margin Stock

The Borrower shall not use any part of the proceeds of any Senior Loans to purchase or carry any Margin Stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying any Margin Stock. The Borrower shall not use any proceeds of the Senior Loans in a manner that could violate or be inconsistent with the provisions of Regulation T, Regulation U, or Regulation X of the Board of Governors of the Federal Reserve System, or any regulations, interpretations or rulings thereunder.

9.22. Sanctions

The Borrower shall not, and shall not permit or authorize any Person to, directly or knowingly indirectly, have any investment in or engage in any dealing or transaction (including using, lending, making payments of, contributing or otherwise making available, all or any part of, the proceeds of the Senior Loans or other transactions contemplated by this Agreement or any other P1 Financing Document), with any Person if such investment or transaction (i) involves or is for the benefit of any Restricted Person or any Sanctioned Country except to the extent permitted for a Person required to comply with Sanctions Regulations, (ii) would cause any Lender or any Affiliate of such Lender to be in violation of, or the subject of, applicable Sanctions Regulations, or (iii) in any other manner that could reasonably be expected to result in any Person (including any Person participating in the Senior Loans) being in breach of any Sanctions Regulations (if any to the extent applicable to any of them) or becoming a Restricted Person.

10. REPORTING COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in Article 6 (*Reporting Requirements*) of the Common Terms Agreement and each of the following supplemental obligations set forth in this Article 10 in favor and for the benefit of the P1 Administrative Agent, each Senior Lender, and the Revolving LC Issuing Bank.

10.1. Financial Statements

As soon as available and in any event prior to the date specified below the Borrower shall deliver:

- (a) on or prior to the sixtieth day after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Borrower:
 - (i) unaudited consolidated statements of income and cash flows of the Borrower for such period and for the period from the beginning of the respective Fiscal Year to the end of such period; and
 - (ii) the related unaudited balance sheet as at the end of such period,setting forth, in each case, in comparative form the corresponding figures for the corresponding period in the preceding Fiscal Year; provided, that the Borrower shall not be required to deliver comparative financial statements for the first three Fiscal Quarters following the Closing Date.
- (b) on or prior to the 120th day after the end of each Fiscal Year of the Borrower, audited consolidated statements of income, member's equity and cash flows of the Borrower for such year and the related audited balance sheets as at the end of such Fiscal Year, and accompanied by an opinion of Grant Thornton LLP or other independent certified public accountants of recognized national standing, which opinion shall state that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower as at the end of, and for, such Fiscal Year on a consolidated basis in accordance with GAAP;

- (c) concurrently with the delivery of the financial statements pursuant to Section 10.1(a) or Section 10.1(b):
 - (i) a certificate executed by the Borrower certifying that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower on the dates and for the periods indicated in accordance with GAAP, subject, in the case of quarterly financial statements to the absence of notes and normal year-end audit adjustments; and
 - (ii) a certificate executed by the Borrower certifying that, no Default or Event of Default or default or event of default under any Senior Secured Debt Instrument exists as of the date of such certificate or, if any default or event of default under any Senior Secured Debt Instrument exists, describing the same in reasonable detail and describing what action the Borrower has taken and proposes to take with respect thereto.
- (d) To the extent that the RG Facility Entities are not consolidated with the Borrower for purposes of the Borrower's financial statements and thus not included on a consolidated basis in the financial statements furnished pursuant to Section 10.1(a) and Section 10.1(b) above, the Borrower shall, concurrently with the delivery of the financial statements furnished pursuant to Section 10.1(a) and Section 10.1(b) above, deliver to the P1 Administrative Agent copies of quarterly unaudited and annual audited financial statements for the RG Facility Entities, respectively.

10.2. Notice of Defaults, Events of Default and Other Events

As soon as practicable and in any event, unless otherwise specified, the Borrower shall deliver within five Business Days after the Borrower obtains Knowledge of any of the following, written notice to the P1 Administrative Agent of:

- (a) any Default or Event of Default and describing any action being taken or proposed to be taken with respect thereto;
- (b) any cessation of material activities related to the development, construction, operation and/or maintenance of the Project not otherwise reflected in the Construction Budget and Schedule and that could reasonably be expected to exceed sixty consecutive days;
- (c) change in ultimate beneficial ownership information of Borrower required to be provided in the Beneficial Ownership Certification most recently delivered to the P1 Administrative Agent;
- (d) any event, occurrence or circumstance that could reasonably be expected to cause (i) an increase of more than \$150,000,000 individually or in the aggregate in P1 Project Costs or (ii) the actual expenditure with respect to any category of expenditure or any line item contained in the Annual Facility Budget to exceed the budgeted amount set forth in the Annual Facility Budget by any amount that would give rise to a vote of one or more Liquefaction Owners pursuant to the CFAA;

- (e) (i) the outage or disability of any Train Facility or Common Facilities for a period of longer than seven days (except for regularly scheduled outages) or (ii) any event which would entitle the Borrower to receive liquidated damages pursuant to Section 14.2.8 (*Subsequent Train Facilities*) of the CFAA or to receive and schedule "Default Quantities" pursuant to Section 14.2.9 (*Subsequent Train Facilities*) of the CFAA, and, in each case, any additional information available to the Borrower as may be reasonably requested by the P1 Intercreditor Agent in connection therewith;
- (f) any proposed appointment, removal or change in the identity of the Facility Independent Engineer pursuant to the CFAA;
- (g) any material dispute between any Loan Party and the relevant tax authorities;
- (h) any material litigation, arbitration, administrative proceeding, investigation, claim or proceeding and any material developments with respect thereto, in each case, relating to the Project (i) in which the amount involved is in excess of \$150,000,000 or (ii) that could reasonably be expected to have a Material Adverse Effect;
- (i) the commencement of commercial exports of LNG from the Rio Grande Facility;
- (j) any ERISA Event that could reasonably be expected to result in material liability to any Loan Party under ERISA or under the Code with respect to any Plan or Multiemployer Plan;
- (k) any event (other than any event specified above) that could reasonably be expected to have a Material Adverse Effect on the Project; and
- (l) copies of any similar notices to those set forth in this Section 10.2 or in Section 6.2 (*Notice of CTA Default, CTA Event of Default, and Other Events*) of the Common Terms Agreement given in connection with additional Working Capital Debt, Replacement Debt or Supplemental Debt, including any notices of any default or event of default under any other Senior Secured Debt Instrument.

10.3. Notices under Material Project Documents

- (a) Promptly upon delivery to any Material Project Party pursuant to a Material Project Document, the Borrower shall deliver to the P1 Administrative Agent copies of all material written notices or other material documents delivered to such Material Project Party by the Borrower (other than routine written notices or other documents delivered in the ordinary course of the administration of such agreements), including each of the notices set forth on Exhibit I (*Rio Grande Facility Notices*) to the CFAA.
- (b) Promptly upon such documents becoming available (and, in the case of the documents described in clauses (iv)-(viii) below, no later than two Business Days following receipt thereof), the Borrower shall deliver to the P1 Administrative Agent copies of all material written notices or other material documents received by the Borrower pursuant to any Material Project Document, other than routine written notices or other documents delivered in the ordinary course of administration of such agreements, but in any event including any notice or other

document relating to (i) a failure by the Borrower to perform any of its material covenants or obligations under such Material Project Document; (ii) termination of a Material Project Document; (iii) a force majeure event under a Material Project Document; (iv) (x) any STF Development Plan (as defined in the Definitions Agreement) received, and, upon finalization, finalized, pursuant to Section 14.2 (*Subsequent Train Facilities*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and any additional information or notice of disagreement received or modification proposed pursuant to Section 14.2.5 (*Subsequent Train Facilities*) of the CFAA (together with any information and documents received in support thereof) and (y) any notice received pursuant to Section 14.2.11 (*Subsequent Train Facilities*) of the CFAA; (v) (x) any Capital Improvement Plan received, and, upon finalization, finalized, pursuant to Section 14.3 (*Capital Improvements Generally*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and (y) any Facility Independent Engineer confirmation received pursuant to Section 14.3.7 (*Capital Improvements Generally*) of the CFAA; (vi) (x) any Restoration Plan received, and, upon finalization, finalized, pursuant to Section 22.1 (*Notice; Restoration Plan*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and (y) any Facility Independent Engineer confirmation received pursuant to Section 22.2.3 (*Events of Loss Affecting Common Facilities*) of the CFAA; (vii) each of the notices set forth on Exhibit I (*Rio Grande Facility Notices*) to the CFAA; and (viii) each of the notices set forth in Section 2.2.3 (*Delivery of Notices*) to the PAAA.

10.4. Construction Period Reports

- (a) The Borrower shall promptly, and in any event within five Business Days, after receipt from the P1 CASA Advisor, deliver to the P1 Administrative Agent and the Independent Engineer a copy of any material written statement, budget, plan or reports delivered to the Borrower under the P1 CASA (including any such statements, budget, plan or report with respect to the Rio Grande Facility) and all lien and claim waivers with respect to the Rio Grande Facility required to be delivered pursuant to Section 3.10(c) (**Other Services**) of the P1 CASA.
- (b) Not later than thirty days after the end of each month following the month during which the Closing Date occurs up to and including the month during which the Project Completion Date occurs, the Borrower shall deliver to the P1 Administrative Agent a monthly construction report from the Independent Engineer regarding the construction activities in relation to the Project carried out during such month based on the report delivered by the P1 CASA Advisor under Section 3.3(j) (*Requirements of Independent Engineers*) of the P1 CASA and such other information reasonably requested by the Independent Engineer.
- (c) The Borrower shall promptly, and in any event within five Business Days, after receipt from the P1 EPC Contractor, deliver to the P1 Administrative Agent and the Independent Engineer a copy of the Substantial Completion Certificate (as defined in each of the P1 EPC Contracts) with respect to each of Train 1, Train 2, and Train 3.

10.5. Operating Period Reports

The Borrower shall promptly, and in any event within five Business Days, after receipt from the Operator, deliver to the P1 Administrative Agent and the Independent Engineer a copy of any operating and other reports (including production and maintenance forecasts, quarterly operating statements and monthly, semi-annual and annual operating reports and any other reports delivered pursuant to Section 3.7 (*Reports*) of the O&M Agreement) delivered to the Borrower under the O&M Agreement.

10.6. Other Documents and Information

The Borrower shall furnish the P1 Administrative Agent:

- (a) promptly after the filing thereof, a copy of each filing made by the Borrower (i) with FERC with respect to the Project and (ii) with DOE/FE with respect to the export of LNG from, or the import of LNG to, the Project, except in the case of clause (i) or (ii) such as are routine or ministerial in nature;
- (b) promptly after obtaining Knowledge thereof, a copy of each filing with respect to (i) the Project made with FERC by any Person other than the Borrower in any proceeding before FERC in which the Borrower is the captioned party or respondent, except for such filings as are routine or ministerial in nature, or (ii) the import of LNG to, or the export of LNG from, the Project made with DOE/FE by any Person other than the Borrower in any proceeding before DOE/FE in which the Borrower is the captioned party or respondent, except for such filings as are routine or ministerial in nature;
- (c) any material amendment to any Material Government Approval, together with a copy of such amendment;
- (d) promptly after the filing thereof, a copy of each filing, certification, waiver, exemption, claim, declaration, or registration made with respect to Material Government Approvals or DOE Export Authorizations to be obtained or filed by the Borrower with any Government Authority, except such filings, certifications, waivers, exemptions, claims, declarations, or registrations that are routine or ministerial in nature and in respect of which a failure to file could not reasonably be expected to have a Material Adverse Effect or to materially impair any DOE Export Authorization;
- (e) any material order issued by FERC or DOE/FE relating to the Project (including any Capital Improvement) or any Material Project Agreement; or
- (f) in the event any Replacement Debt, Supplemental Debt, or Working Capital Debt is incurred by the Borrower, a copy of any report from the Independent Engineer and any other consultant that the Holders of such Senior Secured Debt are entitled to receive.

10.7. Annual Budgets and Plans

- (a) Promptly, and in no event later than five Business Days, after each such document is approved in accordance with the terms of the CFAA, the Borrower shall provide a copy of the Annual Facility Budget, the Annual Facility Plan, the

Annual Operating Budget, the Annual Capital Budget, the Annual Operating Plan, and the Annual Capital Plan to the Independent Engineer and the P1 Administrative Agent.

- (b) Promptly, and in no event later than five Business Days after each document is approved in accordance with the terms of the O&M Agreement, the Borrower shall provide a copy of the Annual O&M Budget and the Annual O&M Plan to the Independent Engineer and the P1 Administrative Agent.

10.8. DSCR Certificates

Together with the delivery of financial statements in accordance with Section 10.1(a) and 10.1(b) in respect of each Fiscal Quarter occurring after the Project Completion Date, the Borrower shall deliver to the P1 Administrative Agent a certificate of an Authorized Officer of the Borrower setting forth (a) the Historical DSCR for the four Fiscal Quarter period ended on such Quarterly Payment Date and (b) the Credit Agreement Projected DSCR for the four Fiscal Quarter period commencing on such Quarterly Payment Date, in each case together with the calculation in reasonable detail and supporting data to confirm such calculations.

10.9. Additional Material Project Documents

- (a) No later than five Business Days after the execution thereof, the Borrower shall deliver copies of any Additional Material Project Documents to the P1 Administrative Agent.
- (b) No later than five Business Days after the execution thereof, the Borrower shall deliver copies of all material amendments, supplements or modifications (including any change order) of any Material Project Documents.

10.10. Environmental and Social Reporting

- (a) Prior to T1 Substantial Completion, the Borrower shall deliver to the P1 Administrative Agent copies of environmental and social information contained in periodic reports prepared by or for the Borrower, which will include a summary of the P1 EPC Contractor's performance against certain key performance indicators and other appropriate environmental and social statistics, such as (i) lost time incidents, (ii) oil spills and releases of hazardous materials, and (iii) other material environmental and social events.
- (b) Within sixty days following each June 30 and December 31 to occur after the Closing Date and prior to T1 Substantial Completion, the Borrower shall deliver to the P1 Administrative Agent and the Independent Engineer a semi-annual environmental and social report prepared by the Environmental Advisor analyzing the Borrower's compliance with the Equator Principles and the Environmental and Social Action Plan.
- (c) Within 120 days following December 31 of each calendar year prior to the Credit Agreement Maturity Date beginning with the first calendar year following the year in which T1 Substantial Completion has occurred, the Borrower shall deliver to the P1 Administrative Agent and the Independent Engineer an annual environmental and social report prepared by the Environmental Advisor analyzing

the Borrower's compliance with the Equator Principles and the Environmental and Social Action Plan.

- (d) As soon as practicable and in any event, unless otherwise specified, within seven Business Days after the Borrower obtains Knowledge of any of the following, written notice to the P1 Administrative Agent of (i) any material Release of Hazardous Materials, (ii) any Environmental and Social Incident (which notice may be subject to subsequent investigation and clarification), (iii) any event or circumstance that could reasonably be expected to give rise to a material Environmental Claim, constitute a breach in any material respect of the Environmental and Social Action Plan, or result, or which has resulted, in a failure by the Borrower to comply in all material respects with Environmental Laws and the Equator Principles, and (iv) other material written notice from Government Authorities related to any of the foregoing or otherwise related to the need to investigate, respond, clean up, or remediate Hazardous Materials or any Environmental and Social Incident.
- (e) As soon as practicable and in any event, unless otherwise specified, within seven Business Days following either (i) delivery to the Borrower of any report prepared for the Borrower regarding any Environmental and Social Incident or (ii) the occurrence of a material development in respect of any Environmental and Social Incident, the Borrower shall deliver to the P1 Administrative Agent a notice, report or update, as applicable, from the Borrower (which may, but need not, be a copy of the report referred to in sub-clause (e)(i) above) in respect of such material development (and, for the avoidance of doubt, no such notice, report or update will require delivery of any document prepared for internal purposes).

10.11. Insurance Reporting

As soon as practicable and in any event, unless otherwise specified, the Borrower shall deliver within five Business Days after the Borrower obtains Knowledge of any of the following, written notice thereof to the P1 Administrative Agent of:

- (a) the occurrence of any Event of Loss or Event of Taking in excess of \$75,000,000 in value or any series of such events or circumstances during any twelve month period in excess of \$250,000,000 in value in the aggregate, or the initiation of any insurance claim proceedings with respect to any such Event of Loss or Event of Taking;
- (b) the occurrence of any event giving rise (or that could reasonably be expected to give rise) to a claim under any insurance policy maintained with respect to the Project in excess of \$75,000,000 with copies of any material document relating thereto that are available to the Borrower;
- (c) any failure to pay any premium, cancellation, termination, suspension, or actual or reasonably anticipated material reductions in the coverages or amounts of any insurance required pursuant to the Insurance Program;
- (d) any reduction in the financial rating of any insurer providing insurance such that the rating no longer meets the requirements set forth in the Insurance Program;

- (e) any notices or other documents delivered by or to the Borrower pursuant to Exhibit E (~~Insurance Requirements~~) of the CFAA;
- (f) any material claims on insurance carried by the P1 EPC Contractor under the P1 EPC Contracts and a summary of the progress and status of such claims;
- (g) the renewal or replacement of any insurance policy required under the Insurance Program, within thirty days thereof;
- (h) without prejudice to its other obligations under this ~~Section 10.11~~ or the CFAA, any fact, event or circumstance that has caused, or that with the giving of notice, lapse of time or making of a determination would cause, it to be in breach of any provision of ~~this Section 10.11~~ **Section 8.17** or the CFAA or the requirements of any of the insurance policies in the Insurance Program and (i) the steps it proposes to take in order to remedy such breach or, if such breach cannot be remedied, to mitigate the risk or liability to which the Project has been or shall reasonably be expected to be exposed by virtue of the occurrence of such breach and (ii) its good faith estimate of the period required to implement, and the cost of, such steps; and
- (i) any information equivalent to the foregoing that the Borrower has received from CFCo or InsuranceCo with respect to the Insurance Program.

10.12. Gas Supply Reporting

For the Borrower's gas supply requirements in connection with its ~~then-Designated~~ **then-existing Credit Agreement Designated** Offtake Agreements, within 45 days following the end of each calendar quarter for the first two years after commissioning of the first Train under and as defined in the P1 EPC Contracts and, thereafter, within 45 days following the end of each June 30 and December 31 of each calendar year, the Borrower will deliver to the P1 ~~Intercreditor~~ **Administrative** Agent reports on the status of its gas supply arrangements (excluding any commercially sensitive trade information) for the Project during the three- or six- month period prior to the end of such quarter or semi-annual period, as applicable, including:

- (a) a summary list of gas suppliers with which the Borrower entered into material gas supply contracts during the covered period; and
- (b) a summary of material gas purchases made and hedges entered into by the Borrower during the covered period, detailing aggregate outstanding contract volumes, remaining tenor (after commencement of services), price ranges of such gas purchases and hedges and aggregate gas purchase, price indexation used and hedge payables with respect to material gas supply contracts and hedges during such covered period.

10.13. Other Information

The Borrower shall provide to the P1 Administrative Agent such other information reasonably requested by the P1 Administrative Agent.

11. EVENTS OF DEFAULT

The CTA Events of Default set forth in Article 7 (*Events of Default*) of the Common Terms Agreement shall constitute Events of Default under this Agreement, subject to all of the provisions of such Article 7 (*Events of Default*) in the Common Terms Agreement, and each of the following events or occurrences set forth in this Article 11 shall be a supplemental Event of Default.

11.1. Non-Payment of Senior Secured Obligations

- (a) The Borrower shall (i) fail to pay when due any principal of any Senior Loans (unless (x) such failure is caused by an administrative or technical error and (y) payment is made within three Business Days of its due date), (ii) fail to pay when due any interest in respect of the Senior Loans, and such failure continues unremedied for a period of three Business Days, or (iii) fail to pay when due any Commitment Fees or letter of credit fees on any Revolving LC and such failure continues unremedied for a period of five Business Days.
- (b) The Borrower shall (i) fail to pay when due any principal of any Senior Secured Debt (other than Senior Loans) in a principal amount in excess of \$125,000,000 unless (A) such failure is caused by an administrative or technical error and (B) payment is made within the cure period permitted pursuant to such Senior Secured Debt Instrument or (ii) fail to pay when due any interest on any Senior Secured Debt (other than Senior Loans), any periodic settlement payment or termination payment in respect of any Senior Secured Hedge Agreement, or any commitment fees, letter of credit fees, or similar fee payable by it under any Senior Secured Debt Instrument (other than this Agreement) when due and, in each of the cases set forth in this clause (b), such failure continues unremedied beyond the cure period permitted pursuant to such Senior Secured Debt Instrument or Senior Secured Hedge Agreement, as applicable.
- (c) The Borrower shall fail to pay any other Senior Secured Obligation payable by it under any P1 Financing Document other than those set forth in Section 11.1(a) and Section 11.1(b) above and such failure continues unremedied for a period of ten Business Days.

11.2. Cross-Acceleration

Any default shall occur with respect to (x) any Senior Secured Debt or (y) any other Indebtedness of the Borrower (other than Senior Secured Debt and Permitted Subordinated Debt) having drawn or undrawn principal amounts in excess of \$125,000,000 in the aggregate and shall have continued beyond any applicable grace period, the effect of which has been to cause the entire amount of such Indebtedness under this Section 11.2 to become due (whether by redemption, purchase, offer to purchase or otherwise) and such Indebtedness under this Section 11.2 remains unpaid or the acceleration of its stated maturity unrescinded.

11.3. Breaches of Covenant

- (a) The Borrower defaults in the due performance and observance of any of its obligations under any of the following Section 8.1, Section 8.2(a), Section 9.2(b),

Section 9.4, Section 9.9, Section 9.10, Section 9.12, or Section 9.18 of this Agreement.

- (b) The Borrower defaults in the due performance and observance of any of its obligations under (i) Section 8.7(a) (other than in relation to any Environmental Laws), Section 8.7(c), Section 8.7(d), Section 8.7(e), Section 9.2(a), Section 9.3(a), or Section 9.22 of this Agreement and (ii) Section 4.8 (*Taxes*) or Section 5.9 (*Permitted Investments*) of the Common Terms Agreement, and such Default continues unremedied for a period of sixty days after the earlier of (x) the date on which the Borrower receives written notice of such Default from the P1 Administrative Agent or (y) the date on which the Borrower obtains Knowledge of such Default.
- (c) The Borrower defaults in the due performance and observance of any of its material obligations under Section 8.16.
- (d) The Pledgor defaults in the due performance and observance of any of its obligations under Sections 5.1(b)-(d) (*Covenants of the Pledgor*) of the P1 Pledge Agreement that is not corrected or cured within thirty days after the earlier of (x) the date on which the Pledgor became aware of such failure and (y) notice from the P1 Collateral Agent to the Borrower and the Pledgor.
- (e) The Pledgor fails to make requested contributions to the Borrower pursuant to the P1 Equity Contribution Agreement if such failure is not cured within ten Business Days; provided, that amounts received by the P1 Collateral Agent by drawing upon any Equity Credit Support (or in the case of any P1 Equity Guaranty, demand thereunder and payment by the applicable P1 Equity Guarantor within five Business Days after such demand) in accordance with Section 2.2(c) (*Equity Credit Support*) of the P1 Equity Contribution Agreement shall be taken into account in the determination of the cure of any such default.
- (f) Failure by the Borrower or the Pledgor, or any P1 Equity Guarantor to comply in any material respect with any covenant or agreement hereunder (other than as otherwise set forth in this Article 11), under the Common Terms Agreement (other than as otherwise set forth in Article 7 (*Events of Default*) of the Common Terms Agreement), or in any other P1 Financing Document (excluding (x) any covenants or agreements set forth in any Senior Secured Debt Instrument other than this Agreement and (y) any covenants or agreements in any Senior Secured Debt Instrument as they may apply to any event affecting any Offtake Agreement to the extent that such event triggers an "Event of Default" (howsoever defined) or a prepayment remedy thereunder); provided, that if such Default is capable of cure, no Event of Default shall have occurred pursuant to this Section 11.3(f) if such Default has been cured within sixty days after Borrower's Knowledge of such Default; provided, further, that if such breach is not capable of cure within such sixty day period, then such sixty day period shall be extended to a total period of ninety days so long as (i) such Default is subject to cure, (ii) the Borrower is diligently pursuing a cure, and (iii) such additional cure period could not reasonably be expected to result in a Material Adverse Effect; it being understood, for the avoidance of doubt, that any breach of Section 18.1(a) (*Meaning of Event of Default*) of the CFAA shall not be subject to extension pursuant to the foregoing provision.

11.4. Breach of Representation or Warranty

Except to the extent constituting an Event of Default under Section 11.11 (in which case Section 11.11 would apply), any representation or warranty made or deemed made by the Borrower or the Pledgor in this Agreement, the Common Terms Agreement, or any other P1 Financing Document shall prove to have been false as of the time made or deemed made, confirmed, or furnished, such falsity (if capable of being remedied) is not remedied within sixty days after the earlier of notice or Borrower's Knowledge of such misrepresentation or false statement, and such falsity or any adverse effects therefrom could reasonably be expected to have a Material Adverse Effect.

11.5. Bankruptcy

A Bankruptcy shall occur with respect to the Borrower and/or notwithstanding Section 7.5(b) ~~Bankruptcy~~ of the Common Terms Agreement, a Bankruptcy shall occur with respect to any RG Facility Entity.

11.6. Litigation

A final judgment or series of judgments in excess of \$150,000,000 in the aggregate (net of insurance proceeds which are reasonably expected to be paid) against the Borrower shall be rendered by one or more Government Authorities, arbitral tribunals or other bodies having jurisdiction over the Borrower, and the same remains unpaid or unstayed for a period of ninety or more days from the date of entry of such judgment or series of judgments.

11.7. Illegality or Unenforceability

This Agreement or any other P1 Financing Document (other than (x) any Senior Secured Debt Instrument that is not a Necessary Senior Secured Debt Instrument or (y) Consent Agreement in respect of any Material Project Document that is not a Credit Agreement Designated Offtake Agreement then in full force and effect or any Consent Agreement where the occurrence of this Event of Default has been triggered by an event affecting the underlying Material Project Document and a prepayment remedy or other "Event of Default" (howsoever defined) is available under the applicable P1 Financing Documents) or any material provision thereof, (a) is declared by a court of competent jurisdiction to be illegal or unenforceable and such unenforceability or illegality is not cured within five Business Days following the date of entry of such judgment (provided, that such five Business Day period will apply only so long as the relevant party is attempting in good faith to cure such unenforceability), (b) should otherwise cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration or termination in accordance with its terms in the ordinary course (and not related to any default hereunder or thereunder)), or (c) is expressly terminated, contested or repudiated by the Borrower, the Pledgor, or any P1 Equity Guarantor party thereto.

11.8. Abandonment

A Credit Agreement Event of Abandonment occurs or is deemed to have occurred.

11.9. Insurance

Any insurance required in the Insurance Program to be obtained and maintained by InsuranceCo is not obtained and maintained as and when required by the Insurance Program and such failure shall remain unremedied for sixty days after the earlier of (a) the Borrower's Knowledge of such failure and (b) the notice from P1 Collateral Agent or the P1 Intercreditor Agent to the Borrower, such cure period to be extended to a total of ninety days so long as the breach is subject to cure, the Borrower is diligently pursuing a cure and such additional cure period could not reasonably be expected to result in a Material Adverse Effect.

11.10. Material Government Approvals

Any Material Government Approval (whether or not such Material Government Approval is identified on Schedule 6.6(b), Schedule 6.6(c), or Schedule 6.6(e) but excluding the DOE Export Authorization and any Material Government Approvals required under Environmental Laws) related to the Borrower, the Development or the Project shall be Impaired and such Impairment could reasonably be expected to have a Material Adverse Effect; unless: (a) the Borrower provides a reasonable remediation plan (which sets forth in reasonable detail the proposed steps to be taken to cure such Impairment) no later than thirty Business Days following the date that the Borrower has Knowledge of the occurrence of such Impairment, (b) the Borrower diligently pursues the implementation of such remediation plan, and (c) such Impairment is cured no later than ninety days following the occurrence thereof.

11.11. Project Environmental Default

There shall have occurred a breach by the Borrower of the covenants described in Section 8.7(a) (in relation to any Environmental Laws) or Section 8.7(b) unless (a) the Borrower or the Operator, as applicable, provides a reasonable remedial plan (which remedial plan sets forth in reasonable detail the proposed steps to be taken to cure such breach), no later than thirty Business Days following the date that the Borrower has Knowledge of the occurrence of such breach, (b) the Borrower diligently pursues the implementation of such remedial plan, as applicable, and (c) such breach is cured no later than ninety days following the occurrence thereof (or such longer period, if any, presented by any administrative, legal, regulatory or statutory time period applicable thereto but only as may be reasonably necessary to cure such breach or required by a Government Authority).

11.12. Material Project Document Defaults

- (a) Any RG Facility Agreement, the Common Accounts Agreement or the P1 CASA shall at any time for any reason cease to be valid and binding or in full force and effect (other than (x) in respect of the DOE Authorization Administration Agreement, in accordance with Section 2.10 (*Effect of Change in Government Rules*) thereof or (y) in respect of the P1 CASA, in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default or early termination right under the P1 CASA)) or shall be materially Impaired; provided, that no Event of Default shall have occurred pursuant to this Section 11.12(a) if the RG Facility Agreement, the Common Accounts Agreement or the P1 CASA, as applicable, shall have been replaced with a replacement agreement on the same terms, subject to the same conditions, and with the same

counterparties (other than the Administrator, the Operator, the Coordinator, the P1 CASA Advisor, or the Export Administrator, as applicable, to the extent replaced in accordance with the Definitions Agreement) as such agreement being replaced within sixty days.

- (b) (i) The Coordinator shall be in material breach or default of its obligations under the Lifting and Scheduling Agreement in a manner that has a material impact on the ability of the Borrower to perform its obligations under the Credit Agreement Designated Offtake Agreement^s, (ii) the Administrator, the Operator, the P1 CASA Advisor, or the Export Administrator shall be in material breach or default of their obligations under any RG Facility Agreement (other than the Lifting and Scheduling Agreement) or the P1 CASA in a manner that has a material and adverse effect on the Development or the Borrower, or (iii) the Coordinator, the Administrator, the Operator, the P1 CASA Advisor, or the Export Administrator shall contest the enforceability of any RG Facility Agreement, any Cash Account Control Agreement (as defined in the Common Accounts Agreement) or the P1 CASA or disaffirm any such agreement in writing; provided, that no Event of Default shall have occurred pursuant to this Section 11.12(b) if such breach or default is cured within sixty days of such breach or default or if the Coordinator, the Administrator, the Operator, the P1 CASA Advisor, or the Export Administrator (as applicable) has been replaced (or is being replaced during the term of any transition period in accordance with the relevant RG Facility Agreement) in accordance with the Definitions Agreement within sixty days of such breach or default.
- (c) Any Material Project Document (other than any Credit Agreement Designated Offtake Agreement and any other Material Project Document otherwise set forth in this Section 11.12) (i) is expressly repudiated in writing by the Material Project Party that is the counterparty thereto and such repudiation could reasonably be expected to have a Material Adverse Effect, (ii) is declared unenforceable in a final judgment of a court of competent jurisdiction against any party, such unenforceability is not cured, and such unenforceability could reasonably be expected to have a Material Adverse Effect, or (iii) shall have been terminated or shall for any reason cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default or early termination right thereunder)) and such termination, failure to be valid, binding, or in full force and effect, or material Impairment could reasonably be expected to have a Material Adverse Effect; provided, that no Event of Default shall have occurred pursuant to this Section 11.12(c) if (x) such event or circumstance is cured within sixty days of such event or circumstance or (y) the Borrower notifies the P1 Administrative Agent that it intends to replace such Material Project Document and diligently pursues such replacement and the applicable Material Project Document is replaced within sixty days with an Additional Material Project Document which has substantially similar or more favorable economic effect for Borrower, as applicable, when taken as a whole together with any other agreements related thereto and which has substantially similar or more favorable non-economic terms (taken as a whole together with any other agreements related thereto) for Borrower, as applicable, as the Material Project Document being replaced.

11.13. Event of Loss

An Event of Loss occurs with respect to all or substantially all of the Project and (a) the Borrower (i) elects not to Restore, (ii) fails to make an election to proceed with the Restoration of the Rio Grande Facility or defer such election in accordance with Section 22.3.1 (*Events of Loss Affecting Train Facilities*) of the CFAA, or (iii) elects to defer its election to proceed or not proceed with the Restoration of the Rio Grande Facility in accordance with Section 22.3.1 (*Events of Loss Affecting Train Facilities*) of the CFAA but thereafter does not elect to proceed with such Restoration of the Rio Grande Facility within sixty days of receipt of a Restoration Plan issued in accordance with Section 22.1.2 (*Notice; Restoration Plan*) of the CFAA or (b) the conditions set forth in paragraph (b) of Schedule 8.16(c) have not been satisfied in accordance with the requirements set forth therein within the ninety-day period specified therein; provided, that if an Event of Loss occurs with respect to a material portion of the Project, the Borrower may elect not to Restore such a material portion of the Project, to the extent that, after giving *pro forma* effect to the Restoration of any remaining portion of the Project in accordance with the relevant Restoration Plan, the Borrower certifies (and the Independent Engineer reasonably concurs with such certification in writing) (i) the Borrower will be capable of complying in all material respects with the Credit Agreement Designated Offtake Agreements and (ii) the Borrower reasonably expects to have (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, committed equity (including the Cash Equity Financing) and projected Contracted Revenues under the Credit Agreement Designated Offtake Agreements) sufficient funds to Restore the Project following such Event of Loss, in each case of clauses (i) and (ii), confirmed by the Independent Engineer.

11.14. Change of Control

A Change of Control occurs.

11.15. ERISA Events

An ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect.

11.16. Liens

The Liens in favor of the Senior Secured Debt Holders under the Senior Security Documents shall, other than by reason of a release of Collateral in accordance with the terms of this Agreement and the Senior Security Documents, at any time cease to constitute valid and perfected Liens granting a first priority security interest in the Collateral (subject to Permitted Liens) and five Business Days have elapsed following the earlier of (a) the Borrower's has Knowledge of the occurrence of such event or circumstance and (b) the notice from P1 Collateral Agent or the P1 Intercreditor Agent to the Borrower thereof.

11.17. Term Conversion; Etc.

The failure to achieve the Term Conversion Date by the Date Certain.

12. REMEDIES

12.1. Acceleration Upon Bankruptcy

If any CTA Event of Default described in Section 7.5(a) (*Bankruptcy*) of the Common Terms Agreement occurs with respect to the Borrower, all outstanding Senior Loan Commitments, if any, shall automatically terminate, the outstanding principal amount of the Senior Loans and all other Obligations shall automatically be and become immediately due and payable and, with respect to any Revolving LCs outstanding at the time of such CTA Event of Default, the Borrower shall make deposits in the LC Cash Collateral Account in accordance with Section 3.7, in each case without notice, demand or further act of the P1 Administrative Agent, the Senior Lenders, or the Revolving LC Issuing Bank.

12.2. Acceleration Upon Other Event of Default

If any Event of Default occurs for any reason other than set forth in Section 12.1 and is continuing (unless cured during any applicable cure period), the P1 Administrative Agent may, or upon the direction of the Majority Senior Lenders shall, by written notice to the Borrower take any or all of the following actions:

- (a) declare the outstanding principal amount of the Senior Loans and all other Obligations that are not already due and payable to be immediately due and payable;
- (b) terminate all outstanding Senior Loan Commitments; and
- (c) with respect to any Revolving LCs outstanding at the time of such Event of Default, require the Borrower to make deposits in the LC Cash Collateral Account in accordance with Section 3.7.

The full unpaid amount of such Senior Loans and other Obligations that have been declared due and payable shall be and become immediately due and payable, without further notice, demand or presentment, as the case may be, and such outstanding Senior Loan Commitments shall terminate. Any declaration made pursuant to this Section 12.2 may, should the Majority Senior Lenders in their sole and absolute discretion so elect, be rescinded by written notice to the Borrower at any time after the principal of the Senior Loans has become due and payable, but before any judgment or decree for the payment of the monies so due, or any part thereof, has been entered; provided, that no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

12.3. Action Upon Event of Default

Subject to the terms of the Collateral and Intercreditor Agreement, if any Event of Default occurs for any reason and is continuing (after giving effect to any cure of the applicable Event of Default), then, the P1 Administrative Agent may, or upon the direction of the Majority Senior Lenders shall, by written notice to the Borrower of its intention to exercise any remedies hereunder, under the other P1 Financing Documents or at law or in equity, and without further notice of default, presentment or demand for payment, protest or notice of non-payment or dishonor, or other notices or demands of any kind, all such notices and demands being waived by the Borrower, exercise any or all

of the following rights and remedies, in any combination or order that the P1 Administrative Agent or the Majority Senior Lenders may elect, in addition to such other right or remedies as the P1 Administrative Agent and the Senior Lenders may have hereunder, under the other P1 Financing Documents or at law or in equity:

- (a) pursuant to the terms of the Common Terms Agreement and the Collateral and Intercreditor Agreement, vote in favor of the taking of any and all actions necessary or desirable to implement any available remedies with respect to the Collateral under any of the P1 Collateral Documents;
- (b) without any obligation to do so, make disbursements or Senior Loans (including any draw upon any Revolving LC) as provided in Section 2.1 and Section 2.6 to or on behalf of the Borrower to cure any Event of Default hereunder and to cure any default and render any performance under any Material Project Documents (or any other contract to which the Borrower is a party) as the Majority Senior Lenders in their sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Senior Lenders' interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate, shall be Senior Secured Obligations, notwithstanding that such expenditures may, together with amounts theretofore advanced under this Agreement, exceed the amount of the Senior Loan Commitments; or
- (c) take (or vote in favor of the taking) other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the Common Terms Agreement or the Collateral and Intercreditor Agreement.

12.4. Application of Proceeds

Subject to the terms of the Collateral and Intercreditor Agreement, any moneys received by the P1 Administrative Agent from the P1 Collateral Agent after the occurrence and during the continuance of an Event of Default and the period during which remedies have been initiated shall be applied in full or in part by the P1 Administrative Agent against the Obligations in the following order of priority (but without prejudice to the right of the Senior Lenders and Revolving LC Issuing Bank, subject to the terms of the Collateral and Intercreditor Agreement, to recover any shortfall from the Borrower):

- (a) first, to payment of that portion of the Obligations constituting fees, costs, expenses (and interest owing thereon (if any)) and any other amounts (including fees, costs and expenses of counsel) payable to the P1 Administrative Agent or the Revolving LC Issuing Bank in their respective capacities as such;
- (b) second, to payment of that portion of the Obligations constituting fees, costs, expenses (and interest owing thereon (if any)) and any other amounts (including fees, costs and expenses of counsel and amounts payable under Article 5) payable to the Senior Lenders ratably in proportion to the amounts described in this clause second payable to them, as certified by the P1 Administrative Agent;
- (c) third, to payment of that portion of the Obligations constituting accrued and unpaid interest (including default interest) with respect to the Senior Loans or unreimbursed Revolving LC Disbursement, payable to the Senior Lenders and the

Revolving LC Issuing Bank ratably in proportion to the respective amounts described in this ~~clause third~~ payable to them, as certified by the P1 Administrative Agent;

- (d) fourth, to payment, on a *pro rata* basis, of (i) that principal amount of the Senior Loans payable to the Senior Lenders (in inverse order of maturity), ratably among the Senior Lenders in proportion to the respective amounts described in this clause fourth held by them, as certified by the P1 Administrative Agent and (ii) the cash collateralization of any outstanding Revolving LCs, in an amount not to exceed the amount required pursuant to Section 3.7; and
- (e) fifth, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by applicable Government Rule.

13. THE P1 ADMINISTRATIVE AGENT

13.1. Appointment and Authority

- (a) Each of the Senior Lenders and the Revolving LC Issuing Bank hereby appoints, designates and authorizes MUFG Bank, Ltd., as its P1 Administrative Agent under and for purposes of each P1 Financing Document to which the P1 Administrative Agent is a party, and in its capacity as the P1 Administrative Agent, to act on its behalf as Senior Secured Debt Holder Representative for the Senior Lenders and the Revolving LC Issuing Bank. MUFG Bank, Ltd. hereby accepts this appointment and agrees to act as the P1 Administrative Agent for the Senior Lenders and the Revolving LC Issuing Bank in accordance with the terms of this Agreement, and to act as Senior Secured Debt Holder Representative for the Senior Lenders and the Revolving LC Issuing Bank in accordance with the Common Terms Agreement. Each of the Senior Lenders and the Revolving LC Issuing Bank appoints and authorizes the P1 Administrative Agent to act on behalf of such Senior Lender and the Revolving LC Issuing Bank under each P1 Financing Document to which it is a party and in the absence of other written instructions from the Majority Senior Lenders received from time to time by the P1 Administrative Agent (with respect to which the P1 Administrative Agent agrees that it will comply, except as otherwise provided in this Section 13.1 or as otherwise advised by counsel, and subject in all cases to the terms of the Collateral and Intercreditor Agreement), to exercise such powers hereunder and thereunder as are specifically delegated to or required of the P1 Administrative Agent by the terms hereof and thereof, together with such powers as may be reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in any P1 Financing Document, the P1 Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the P1 Administrative Agent have or be deemed to have any fiduciary relationship with any Senior Lender, Revolving LC Issuing Bank or other Credit Agreement Senior Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into any P1 Financing Document or otherwise exist against the P1 Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to the P1 Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Government Rule. Instead, such term is

used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

- (b) The provisions of this Section 13.1 are solely for the benefit of the P1 Administrative Agent, the Senior Lenders and the Revolving LC Issuing Bank, and neither the Borrower nor any other Person shall have rights as a third party beneficiary of any of such provisions other than the Borrower's rights under Section 13.7(a) and Section 13.7(b).

13.2. Rights as a Senior Lender or Revolving LC Issuing Bank

Each Person serving as the P1 Administrative Agent hereunder or under any other P1 Financing Document shall have the same rights and powers in its capacity as a Senior Lender or Revolving LC Issuing Bank, as the case may be, as any other Senior Lender or Revolving LC Issuing Bank and may exercise the same as though it were not the P1 Administrative Agent. Each such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or Affiliates of the Borrower as if such Person were not the P1 Administrative Agent hereunder and without any duty to account therefor to any Senior Lender or the Revolving LC Issuing Bank.

13.3. Exculpatory Provisions

- (a) The P1 Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other P1 Financing Documents. Without limiting the generality of the foregoing, the P1 Administrative Agent shall not:
 - (i) be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;
 - (ii) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other P1 Financing Documents that the P1 Administrative Agent is required to exercise as directed in writing by the Majority Senior Lenders (or such other number or percentage of the Senior Lenders as shall be expressly provided for herein or in the other P1 Financing Documents); provided, that the P1 Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the P1 Administrative Agent to liability or that is contrary to any P1 Financing Document or applicable Government Rule; or
 - (iii) except as expressly set forth herein and in the other P1 Financing Documents, have any duty to disclose, nor shall the P1 Administrative Agent be liable for any failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the P1 Administrative Agent or any of its Affiliates in any capacity.
- (b) The P1 Administrative Agent shall not be liable for any action taken or not taken by it (i) with the prior written consent or at the request of the Majority Senior Lenders (or such other number or percentage of the Senior Lenders as may be

necessary, or as the P1 Administrative Agent may believe in good faith to be necessary, under the circumstances as provided in Section 14.1) or (ii) in the absence of its own gross negligence or willful misconduct, as determined by a final and Non-Appealable judgment of a court of competent jurisdiction. The P1 Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to the P1 Administrative Agent in writing by the Borrower, a Senior Lender or the Revolving LC Issuing Bank.

- (c) The P1 Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other P1 Financing Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence or continuance of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other P1 Financing Document or any other agreement, instrument or document, or the perfection or priority of any Lien or security interest created or purported to be created by any Senior Security Document, or (v) the satisfaction of any condition set forth in Article 7 or elsewhere herein, other than to confirm receipt of any items expressly required to be delivered to the P1 Administrative Agent.
- (d) The P1 Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the P1 Administrative Agent shall not (i) be obligated to ascertain, monitor or inquire as to whether any Senior Lender or Participant or prospective Senior Lender or Participant is a Disqualified Institution or (ii) have any liability with respect to or arising out of any assignment or participation of Senior Loans, or disclosure of confidential information, to any Disqualified Institution.

13.4. Reliance by P1 Administrative Agent

The P1 Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The P1 Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Senior Loan that by its terms must be fulfilled to the satisfaction of any Senior Lender, the P1 Administrative Agent may presume that such condition is satisfactory to such Senior Lender unless the P1 Administrative Agent has received notice to the contrary from such Senior Lender prior to the making of such Senior Loan. The P1 Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

13.5. Delegation of Duties

The P1 Administrative Agent may perform any and all of its duties and exercise any and all its rights and powers hereunder or under any other P1 Financing Document by or through any one or more sub-agents appointed by the P1 Administrative Agent. The P1 Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article 13 shall apply to any such sub-agent and to the Related Parties of the P1 Administrative Agent, and shall apply to all of their respective activities in connection with their acting as or for the P1 Administrative Agent. The P1 Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and Non-Appealable judgment that the P1 Administrative Agent acted with gross negligence or willful misconduct in the selection or supervision of such sub-agents.

13.6. Request for Indemnification by the Senior Lenders

The P1 Administrative Agent shall be fully justified in taking, refusing to take or continuing to take any action hereunder unless it shall first be indemnified to its satisfaction by the Senior Lenders against any and all liability and expense which may be incurred by it by reason of taking, refusing to take or continuing to take any such action.

13.7. Resignation or Removal of P1 Administrative Agent

- (a) The P1 Administrative Agent may resign from the performance of all its functions and duties hereunder and under the other P1 Financing Documents at any time by giving thirty days' prior notice to the Borrower, the P1 Collateral Agent, the Senior Lenders, and the Revolving LC Issuing Bank. The P1 Administrative Agent may be removed at any time by the Majority Senior Lenders if the P1 Administrative Agent becomes a Defaulting Lender. In the event MUFG Bank, Ltd. is no longer the P1 Administrative Agent, any successor P1 Administrative Agent may be removed at any time with cause by the Majority Senior Lenders. Any such resignation or removal shall take effect upon the appointment of a successor P1 Administrative Agent, in accordance with this Section 13.7.
- (b) Upon any notice of resignation by the P1 Administrative Agent or upon the removal of the P1 Administrative Agent by the Majority Senior Lenders or any Senior Lender in accordance with Section 13.7(a), the Majority Senior Lenders shall appoint a successor P1 Administrative Agent, hereunder and under each other P1 Financing Document to which the P1 Administrative Agent is a party, such successor P1 Administrative Agent to be a commercial bank (i) that has a combined capital and surplus of at least \$1,000,000,000 and (ii) that is a FATCA Exempt Party; provided, that if no Default or Event of Default shall then be continuing, appointment of a successor P1 Administrative Agent shall also be acceptable to the Borrower (such acceptance not to be unreasonably withheld, conditioned or delayed). The fees payable by the Borrower to a successor P1 Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor.

- (c) If no successor P1 Administrative Agent has been appointed by the Majority Senior Lenders within thirty days after the date such notice of resignation was given by such resigning P1 Administrative Agent, such P1 Administrative Agent's resignation shall nevertheless become effective and the Majority Senior Lenders shall thereafter perform all the duties of such P1 Administrative Agent hereunder and/or under any other P1 Financing Document until such time, if any, as the Majority Senior Lenders appoint a successor P1 Administrative Agent. If no successor P1 Administrative Agent has been appointed by the Majority Senior Lenders within thirty days after the date the Majority Senior Lenders elected to remove such Person, any Credit Agreement Senior Secured Party may petition any court of competent jurisdiction for the appointment of a successor P1 Administrative Agent. Such court may thereupon, after such notice, if any, as it may deem proper, appoint a successor P1 Administrative Agent, who shall serve as P1 Administrative Agent hereunder and under each other P1 Financing Document to which it is a party until such time, if any, as the Majority Senior Lenders appoint a successor P1 Administrative Agent, as provided above.
- (d) Upon the acceptance of a successor's appointment as P1 Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) P1 Administrative Agent, and the retiring (or removed) P1 Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other P1 Financing Documents and the replaced P1 Administrative Agent shall make available to the successor P1 Administrative Agent such records, documents and information in the replaced P1 Administrative Agent's possession and provide such assistance as the successor P1 Administrative Agent may reasonably request in connection with its appointment as the successor P1 Administrative Agent. After the retirement or removal of the P1 Administrative Agent hereunder and under the other P1 Financing Documents, the provisions of this Article 13 and Section 14.8 shall continue in effect for the benefit of such retiring (or removed) Person, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Person was acting in its capacity as P1 Administrative Agent.

13.8. No Amendment to Duties of P1 Administrative Agent Without Consent

The P1 Administrative Agent shall not be bound by any waiver, amendment, supplement or modification of this Agreement or any other P1 Financing Document that affects its rights or duties hereunder or thereunder unless such P1 Administrative Agent shall have given its prior written consent, in its capacity as P1 Administrative Agent thereto.

13.9. Non-Reliance on P1 Administrative Agent and Senior Lenders

Each of the Senior Lenders and the Revolving LC Issuing Bank acknowledges that it has, independently and without reliance upon the P1 Administrative Agent, any other Senior Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and make its extensions of credit. Each of the Senior Lenders and Revolving LC Issuing Bank also acknowledges that it will, independently and without reliance upon the P1 Administrative Agent any other Senior Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this

Agreement, any other P1 Financing Document or any related agreement or any document furnished hereunder or thereunder.

13.10. Coordinating Lead Arranger and Joint Bookrunner, the Documentation Agents, the Regional Coordinators, the Syndication Agents, the Global Coordinators, the Coordinating Lead Arranger, the Joint Lead Arranger, the Arrangers, or the Senior Managing Agents Duties

Anything herein to the contrary notwithstanding, no Coordinating Lead Arranger and Joint Bookrunner, Documentation Agent, Regional Coordinator, Syndication Agent, Global Coordinator, Coordinating Lead Arranger, Joint Lead Arranger, Arranger, or Senior Managing Agent shall have any powers, duties or responsibilities under this Agreement, except in its capacity, as applicable, as the P1 Administrative Agent, P1 Collateral Agent, Senior Lender or Revolving LC Issuing Bank hereunder.

13.11. Copies

The P1 Administrative Agent shall give prompt notice to each Senior Lender and Revolving LC Issuing Bank of receipt of each notice or request required or permitted to be given to the P1 Administrative Agent by the Borrower pursuant to the terms of this Agreement or any other P1 Financing Document (unless concurrently delivered to the Senior Lenders or Revolving LC Issuing Bank, as applicable, by the Borrower). The P1 Administrative Agent will distribute to each Senior Lender and Revolving LC Issuing Bank each document and other communication received by the P1 Administrative Agent from the Borrower for distribution to the Senior Lenders and the Revolving LC Issuing Bank by the P1 Administrative Agent in accordance with the terms of this Agreement or any other P1 Financing Document.

13.12. Erroneous Payments.

- (a) If the P1 Administrative Agent (i) notifies a Senior Lender, Revolving LC Issuing Bank, or any Person who has received funds on behalf of a Senior Lender or Revolving LC Issuing Bank (any such Senior Lender, Revolving LC Issuing Bank or other recipient (and each of their respective successors and assigns), a **"Payment Recipient"**) that the P1 Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice from the P1 Administrative Agent) received by such Payment Recipient from the P1 Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Senior Lender, Revolving LC Issuing Bank or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an **"Erroneous Payment"**) and (ii) demands in writing the return of such Erroneous Payment (or a portion thereof) provided, that, without limiting any other rights or remedies (whether at law or in equity), the P1 Administrative Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within five Business Days of the date of receipt of such Erroneous Payment by the applicable Payment Recipient), such Erroneous Payment shall at all times remain the property of the P1 Administrative Agent pending its return or repayment as contemplated below in

this Section 13.12 and held in trust for the benefit of the P1 Administrative Agent, and such Senior Lender or Revolving LC Issuing Bank shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the P1 Administrative Agent may, in its sole discretion, specify in writing), return to the P1 Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the P1 Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the P1 Administrative Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the P1 Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the P1 Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

- (b) Without limiting immediately preceding clause (a), each Senior Lender, Revolving LC Issuing Bank or any Person who has received funds on behalf of a Senior Lender or Revolving LC Issuing Bank (and each of their respective successors and assigns), agrees that if it receives a payment, prepayment, or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution, or otherwise) from the P1 Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the P1 Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the P1 Administrative Agent (or any of its Affiliates), or (z) that such Senior Lender, Revolving LC Issuing Bank or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:
- (i) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the P1 Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and
 - (ii) such Senior Lender or Revolving LC Issuing Bank shall use commercially reasonable efforts to (and shall use commercially reasonable efforts to cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y), and (z)) notify the P1 Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the P1 Administrative Agent pursuant to this Section 13.12(b).

For the avoidance of doubt, the failure to deliver a notice to the P1 Administrative Agent pursuant to this Section 13.12(b) shall not have any effect on a Payment

Recipient's obligations pursuant to Section 13.12(a) or on whether or not an Erroneous Payment has been made.

- (c) Each Senior Lender or Revolving LC Issuing Bank hereby authorizes the P1 Administrative Agent to set off, net and apply any and all amounts at any time owing to such Senior Lender or Revolving LC Issuing Bank under any P1 Financing Document, or otherwise payable or distributable by the P1 Administrative Agent to such Senior Lender or Revolving LC Issuing Bank under any P1 Financing Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the P1 Administrative Agent has demanded to be returned under immediately preceding clause (a).
- (d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the P1 Administrative Agent for any reason, after demand therefor in accordance with immediately preceding clause (a), from any Senior Lender or Revolving LC Issuing Bank that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an **"Erroneous Payment Return Deficiency"**), upon the P1 Administrative Agent's notice to such Senior Lender or Revolving LC Issuing Bank at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (i) such Senior Lender or Revolving LC Issuing Bank shall be deemed to have assigned its Senior Loans (but not its Senior Loan Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the **"Erroneous Payment Impacted Class"**) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the P1 Administrative Agent may specify) (such assignment of the Senior Loans (but not Senior Loan Commitments) of the Erroneous Payment Impacted Class, the **"Erroneous Payment Deficiency Assignment"**) (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by the P1 Administrative Agent in such instance)), and is hereby (together with the Borrower) deemed to execute and deliver a Lender Assignment Agreement with respect to such Erroneous Payment Deficiency Assignment, and such Senior Lender or Revolving LC Issuing Bank shall deliver any Construction/Term Loan Notes or Revolving Loan Notes evidencing such Senior Loans to the Borrower or the P1 Administrative Agent (but the failure of such Person to deliver any such Construction/Term Loan Notes or Revolving Loan Notes shall not affect the effectiveness of the foregoing assignment), (ii) the P1 Administrative Agent as the assignee Senior Lender or Revolving LC Issuing Bank shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the P1 Administrative Agent as the assignee Senior Lender or Revolving LC Issuing Bank shall become a Senior Lender or Revolving LC Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Senior Lender or Revolving LC Issuing Bank shall cease to be a Senior Lender or Revolving LC Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Senior Loan Commitments which shall survive as to such assigning Senior Lender or Revolving LC Issuing Bank, (iv) the P1 Administrative Agent and the Borrower shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (v) the P1

Administrative Agent will reflect in the Register its ownership interest in the Senior Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Senior Loan Commitments of any Senior Lender or Revolving LC Issuing Bank and such Senior Loan Commitments shall remain available in accordance with the terms of this Agreement.

- (e) Subject to Section 14.4, the P1 Administrative Agent may, in its discretion, sell any Senior Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Senior Lender or Revolving LC Issuing Bank shall be reduced by the net proceeds of the sale of such Senior Loan (or portion thereof), and the P1 Administrative Agent shall retain all other rights, remedies, and claims against such Senior Lender or Revolving LC Issuing Bank (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Senior Lender or Revolving LC Issuing Bank (i) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the P1 Administrative Agent on or with respect to any such Senior Loans acquired from such Senior Lender or Revolving LC Issuing Bank pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Senior Loans are then owned by the P1 Administrative Agent) and (ii) may, in the sole discretion of the P1 Administrative Agent, be reduced by any amount specified by the P1 Administrative Agent in writing to the applicable Senior Lender from time to time.
- (f) The parties hereto agree that (i) irrespective of whether the P1 Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the P1 Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Senior Lender or Revolving LC Issuing Bank, to the rights and interests of such Senior Lender or Revolving LC Issuing Bank, as the case may be) under the P1 Financing Documents with respect to such amount (the “**Erroneous Payment Subrogation Rights**”) and (ii) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower; provided, that this Section 13.12 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the P1 Administrative Agent; provided, further, that for the avoidance of doubt, immediately preceding clauses (i) and (ii) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the P1 Administrative Agent from, or on behalf of (including through the exercise of remedies under any P1 Financing Document), the Borrower for the purpose of a payment on the Obligations.
- (g) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to

waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the P1 Administrative Agent for the return of any Erroneous Payment received, including, without limitation, any defense based on “discharge for value” or any similar doctrine.

- (h) Notwithstanding anything to the contrary herein or in any other P1 Financing Document, neither any Loan Party nor any of its respective Affiliates shall have any obligations or liabilities (including the payment of any assignment or processing fee payable to the P1 Administrative Agent in connection therewith) directly or indirectly arising out of this Section 13.12 in respect of any Erroneous Payment (other than having consented to the assignment referenced in clause (d) above).
- (i) Each party's obligations, agreements and waivers under this Section 13.12 shall survive the resignation or replacement of the P1 Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Senior Lender or Revolving LC Issuing Bank, the termination of the applicable Senior Loan Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any P1 Financing Document.

14. MISCELLANEOUS PROVISIONS

14.1. Amendments, Etc.

- (a) Subject to the terms of the Collateral and Intercreditor Agreement and other than Section 4.4(e), Section 5.7, and Section 14.1(e), no Bank Financing Document or any provision thereof may be amended, modified, or waived unless in writing signed by the Borrower and the Majority Senior Lenders or the P1 Administrative Agent as directed by the Majority Senior Lenders, and each such amendment, modification, or waiver shall be effective only in the specific instance and for the specific purpose for which given; provided, that:
 - (i) the consent of each Senior Lender and Revolving LC Issuing Bank directly and adversely affected thereby will be required with respect to any amendment, modification or waiver in order to:
 - (A) extend or increase any Senior Loan Commitment (other than pursuant to Section 2.11);
 - (B) extend the maturity date or postpone any date scheduled for any payment of principal, fees or interest (as applicable) under Article 3, Section 4.1, Section 4.2, Section 4.3, Section 4.10, or Section 4.13 or any date fixed by the P1 Administrative Agent for the payment of fees or other amounts due to the Senior Lenders or Revolving LC Issuing Bank (or any of them) hereunder (other than pursuant to Section 2.11);
 - (C) reduce the principal of, or the interest or rate of interest specified herein on, any Senior Loan, Revolving LC, or any Revolving LC Disbursement, or any Fees or other amounts (including any mandatory prepayments under Section 4.10) payable to any Senior Lender or Revolving LC Issuing Bank hereunder;

- (D) change the pro-rata treatment, sharing of payments, order of application of any reduction in any Senior Loan Commitments or Tranches or any prepayment of Revolving Loans (or cash collateralization of Revolving LCs) from the application thereof set forth in the applicable provisions of Section 2.1(g), Section 2.4, Section 2.9, Section 4.9, Section 4.10, Section 4.14, Section 4.15, or Section 12.4, respectively, in any manner;
 - (E) contractually subordinate the Liens in favor of the P1 Collateral Agent over the Collateral under and pursuant to the Senior Security Documents to Liens over of the Collateral securing any other Indebtedness (any such other Indebtedness, the “**Senior Indebtedness**”) (it being understood that this clause (E) shall not (i) override the permission for (x) Permitted Liens or (y) Indebtedness expressly permitted by Section 9.4 as in effect on the Closing Date or (ii) apply to the incurrence of financing provided to the Borrower pursuant to Section 364 of the Bankruptcy Code or any similar proceeding under any other applicable debtor relief laws).
- (ii) the consent of each Senior Lender and Revolving LC Issuing Bank will be required with respect to any amendment, modification or waiver in order to:
- (A) waive any condition set forth in Section 7.1, or, with respect to the initial Credit Agreement Advance, Section 7.2 and Section 7.3;
 - (B) change any provision of this Section 14.1, the definition of Majority Senior Lenders, Supermajority Senior Lenders, Unanimous Decision, or any other provision hereof specifying the number or percentage of Senior Lenders or Revolving LC Issuing Bank required to amend, waive, terminate or otherwise modify any rights hereunder or make any determination or grant any consent hereunder;
 - (C) subject to all other provisions of this Section 14.1, release or allow release of (i) all or substantially all of the guarantee obligations or the value of any guarantee of the applicable RG Facility Entities as Common Guarantors under and as defined in the Common Accounts Agreement other than in accordance with the terms of the Common Accounts Agreement or (ii) all or any material portion of the Collateral from the Lien of any of the Senior Security Documents (other than (1) upon the sale, conveyance, lease, transfer, or other disposal of assets that do not constitute all or substantially all of the assets of the Borrower or (2) the termination, assignment, or other disposition of Material Project Documents in accordance with the P1 Financing Documents); or
 - (D) amend, modify, waive, or supplement the terms of Section 14.4.
- (iii) each Senior Lender and Revolving LC Issuing Bank shall provide written notice of any vote or action with respect to any consent, amendment,

waiver or termination taken pursuant to this Agreement, or any other P1 Financing Document, to the P1 Administrative Agent, with a copy to the P1 Intercreditor Agent.

- (iv) no amendment, modification, or waiver shall affect the rights or duties of, or any fees or other amounts payable to, the P1 Administrative Agent or the P1 Collateral Agent, unless consented to and signed by such party.
- (b) The Borrower agrees that if any of the terms (other than the economic terms ~~or any terms that would apply after the Maturity Date hereunder~~) set forth in any Senior Secured Debt Instrument related to Replacement Debt, Funding Shortfall Debt, and Reinstatement Debt incurred prior to the Term Conversion Date are either more favorable to the Senior Secured Debt Holders of such Replacement Debt, Funding Shortfall Debt, or Reinstatement Debt, as applicable, than the terms (other than the economic terms ~~or any terms that would apply after the Maturity Date hereunder~~) in favor of the Senior Lenders or Revolving LC Issuing Bank under this Agreement or are additional to the terms (other than the economic terms or any terms that would apply after the Maturity Date hereunder) in favor of the Senior Lenders or Revolving LC Issuing Bank under this Agreement and more favorable to the Senior Secured Debt Holders under such Replacement Debt, Funding Shortfall Debt, or Reinstatement Debt, as applicable, then the comparable provisions of this Agreement shall be amended (with the consent of the P1 Administrative Agent) to provide the Senior Lenders or Revolving LC Issuing Bank, as applicable, with such more favorable terms or to add such provisions, as the case may be.
- (c) The P1 Administrative Agent shall approve any Economic Terms Modification of any other Senior Secured Debt Instrument if requested pursuant to Section 6.1 (*Modifications, Consents and Waivers of and under Senior Secured Debt Instruments*) of the Collateral and Intercreditor Agreement.
- (d) The P1 Administrative Agent shall not Consent to any Modifications, Consents or Waivers of and under any P1 Collateral Document (other than Administrative Decisions (as defined in the Collateral and Intercreditor Agreement)) unless (i) if such Modification, Consent, or Waiver is a Unanimous Decision, it is directed to do so by each Senior Lender and Revolving LC Issuing Bank (in each case, other than any Senior Lender or Revolving LC Issuing Bank that is a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof) or (ii) otherwise, it is directed to do so by the Majority Senior Lenders.
- (e) **Notwithstanding anything herein, each of the Senior Lenders and Revolving LC Issuing Bank authorizes and instructs the P1 Administrative Agent to enter into amendments to this Agreement of a routine technical or administrative nature or to correct any defects, ambiguities, manifest errors, or inconsistencies herein; provided, that the P1 Administrative shall provide notice to each of the Senior Lenders and the Revolving LC Issuing Bank of any such amendment.**

14.2. Entire Agreement

- (a) This Agreement, the other P1 Financing Documents and any agreement, document or instrument attached hereto or referred to herein integrate all the

terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof (other than any terms of the Commitment Letter that survive the Closing Date).

- (b) In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument (including the Common Terms Agreement), the terms, conditions and provisions of this Agreement shall prevail.

14.3. Governing Law; Jurisdiction; Etc.

- (a) GOVERNING LAW. THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.
- (b) SUBMISSION TO JURISDICTION. TO THE EXTENT PERMITTED BY GOVERNMENT RULES, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER P1 FINANCING DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER P1 FINANCING DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER P1 FINANCING DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION IF GOVERNMENT RULES DOES NOT PERMIT A CLAIM, ACTION OR PROCEEDING REFERRED TO IN THE FIRST SENTENCE OF THIS SECTION 14.3(b) TO BE FILED, HEARD OR DETERMINED IN OR BY THE COURTS SPECIFIED THEREIN.
- (c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER P1 FINANCING DOCUMENT IN ANY COURT REFERRED TO IN SECTION 14.3(b). EACH OF THE PARTIES HERETO HEREBY

IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY GOVERNMENT RULES, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

- (d) Service of Process. Each Party hereto irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Person at its then effective notice addresses pursuant to Section 14.11.
- (e) Immunity. To the extent that the Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, the Borrower hereby irrevocably and unconditionally waives such immunity in respect of its obligations under the P1 Financing Documents and, without limiting the generality of the foregoing, agrees that the waiver set forth in this Section 14.3(e) shall have the fullest scope permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and is intended to be irrevocable for purposes of such act.
- (f) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER P1 FINANCING DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER P1 FINANCING DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.3.

14.4. Assignments

- (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each of the Senior Lenders, the Revolving LC Issuing Bank and the P1 Administrative Agent (and any attempted assignment or other transfer by the Borrower without such consent shall be null and void), and no Senior Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with Section 14.4(b), (ii) by way of participation in accordance with Section 14.4(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 14.4(e) (and any other attempted assignment or transfer by any Party hereto shall be null and void).

(b)

- (i) Subject to Section 14.4(h) and this Section 14.4(b), any Senior Lender may at any time after the date hereof assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Senior Loan Commitment, its participations in Revolving LCs or the Senior Loans at the time owing to it).
- (ii) Except in the case of (A) an assignment of the entire remaining amount of the assigning Senior Lender's Construction/Term Loan Commitment or Revolving Loan Commitment and Construction/Term Loan or Revolving Loan, as applicable, at the time owing to it or (B) an assignment to a Senior Lender, or an Affiliate of a Senior Lender, or an Approved Fund with respect to a Senior Lender, the sum of (1) the outstanding applicable Construction/Term Loan Commitments or Revolving Loan Commitments, if any, (2) participations in the Revolving LCs, and (3) the outstanding applicable Construction/Term Loans or Revolving Loans subject to each such assignment (determined as of the date the Lender Assignment Agreement with respect to such assignment is delivered to the P1 Administrative Agent or, if a Trade Date is specified in the Lender Assignment Agreement, as of the Trade Date) shall not be less than \$5,000,000 and, with respect to the assignment of the Senior Loans, in integral multiples of \$1,000,000, unless the P1 Administrative Agent otherwise consents in writing; provided, that the parties to each assignment shall execute and deliver to the P1 Administrative Agent a Lender Assignment Agreement, together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the P1 Administrative Agent's sole discretion).
- (iii) If the Eligible Assignee is not a Senior Lender prior to such assignment, it shall deliver to the P1 Administrative Agent an administrative questionnaire and all documentation and other information required by bank regulatory authorities under applicable ~~KYC Requirements~~ **"know your customer" requirements**.
- (iv) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the P1 Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the P1 Administrative Agent, the applicable *pro rata* share of Senior Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the P1 Administrative Agent, and each other Senior Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) all Construction/Term Loan Commitments and Revolving Loan Commitments, Construction/Term Loans and Revolving

Loans, and participations in Revolving LCs of such Defaulting Lender. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this Section 14.4(b)(iv), then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

- (v) Subject to acceptance and recording thereof by the P1 Administrative Agent pursuant to Section 2.10(d), from and after the effective date specified in each Lender Assignment Agreement, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Lender Assignment Agreement, have the rights and obligations of a Senior Lender under this Agreement, and the assigning Senior Lender thereunder shall, to the extent of the interest assigned by such Lender Assignment Agreement, be released from its obligations under this Agreement (and, in the case of a Lender Assignment Agreement covering all of the assigning Senior Lender's rights and obligations under this Agreement, such Senior Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Section 5.1, Section 5.3, Section 5.5, Section 5.6, Section 8.7 (*Costs and Expenses*) of the Common Terms Agreement, Section 8.6 (*Expenses*) of the P1 Security Agreement, and Section 4.7 (*Fees; Expenses*) of the P1 Accounts Agreement with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Senior Lender's having been a Defaulting Lender.
 - (vi) Upon request, the Borrower (at its expense) shall execute and deliver the applicable Senior Loan Notes to the assignee Senior Lender and/or revised Senior Loan Notes to the assigning Senior Lender reflecting such assignment.
 - (vii) Any assignment or transfer by a Senior Lender of rights or obligations under this Agreement that does not comply with this Section 14.4(b) shall be treated for purposes of this Agreement as a sale by such Senior Lender of a participation in such rights and obligations in accordance with Section 14.4(d).
- (c) The P1 Administrative Agent shall maintain the Register in accordance with Section 2.10(d) above.
- (d) Any Senior Lender may at any time, without the consent of, or notice to, the Borrower or the P1 Administrative Agent, sell participations to any Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) (each, a "**Participant**") in all or a portion of such Senior Lender's rights or obligations under this Agreement (including all or a portion of its Senior Loan Commitment or the Senior Loans owing to it of any Tranche); provided, that (i) such Senior Lender's obligations under this Agreement shall remain unchanged, (ii) such

Senior Lender remains solely responsible to the other parties hereto for the performance of such obligations and such participation shall not give rise to any legal privity between the Borrower and the Participant, and (iii) the Borrower, the P1 Administrative Agent, the P1 Collateral Agent, the Revolving LC Issuing Bank, and the other Senior Lenders shall continue to deal solely and directly with such Senior Lender in connection with such Senior Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Senior Lender shall be responsible for the indemnity under Section 14.8 with respect to any payments made by such Senior Lender to its Participant(s). Any agreement or instrument pursuant to which a Senior Lender sells such a participation shall provide that such Senior Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided, that such agreement or instrument may provide that such Senior Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 14.1 that directly affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Section 5.3 and Section 5.6 (subject to the requirements and limitations therein, including the requirements under Section 5.6(g) (it being understood that any documentation required under Section 5.6 shall be delivered to the participating Senior Lender)) to the same extent as if it were a Senior Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 14.4; provided, that such Participant (A) agrees to be subject to the provisions of Section 5.4 as if it were an assignee under clause (b) of this Section 14.4; and (B) shall not be entitled to receive any greater payment under Section 5.3, Section 5.5, or Section 5.6, with respect to any participation, than its participating Senior Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Senior Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 5.4 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 14.14 as though it were a Senior Lender; provided, that such Participant agrees to be subject to Section 4.15 as though it were a Senior Lender. Each Senior Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the applicable Senior Loans or other obligations under the P1 Financing Documents (the "**Participant Register**"); provided, that no Senior Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any P1 Financing Document) to any other Person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Proposed Treasury Regulations Section 1.163-5(b) and within the meaning of Sections 163(f), 871(h)(2), and 881(c)(2) of the Code and any related United States Treasury Regulations (or any other relevant or successor provisions of the Code or of such United States Treasury Regulations). The entries in the Participant Register shall be conclusive absent manifest error, and such Senior Lender shall treat each Person whose name is recorded in the Participant Register

as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the P1 Administrative Agent (in its capacity as P1 Administrative Agent) shall have no responsibility for maintaining a Participant Register.

- (e) Any Senior Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Senior Loan Notes, if any) to secure obligations of such Senior Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction; provided, that no such pledge or assignment shall release such Senior Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Senior Lender as a Party hereto.
- (f) Any Senior Lender may at any time, assign all or a portion of its rights and obligations with respect to Construction/Term Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender through (i) Dutch auctions open to all Senior Lenders of the applicable Class on a *pro rata* basis in accordance with the procedures set forth on Exhibit Q hereto or (ii) open market purchases on *apro rata* or non-*pro rata* basis, in each case subject to the following limitations:
 - (i) the assigning Senior Lender and the Affiliated Lender purchasing such Senior Lender's Construction/Term Loans shall execute and deliver to the P1 Administrative Agent an assignment agreement substantially in the form of Exhibit F-2 hereto (an "**Affiliated Lender Assignment Agreement**");
 - (ii) Affiliated Lenders will not receive information provided solely to Senior Lenders by the P1 Administrative Agent or any Senior Lender and will not be permitted to attend or participate in conference calls or meetings attended solely by the Senior Lenders and the P1 Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Senior Loans or Senior Loan Commitments required to be delivered to Senior Lenders pursuant to Article 2;
 - (iii) the aggregate principal amount of Construction/Term Loans held at any one time by Affiliated Lenders shall not exceed 25% of the principal amount of all Construction/Term Loans at such time outstanding (measured at the time of purchase) (such percentage, the "**Affiliated Lender Cap**"); provided, that, to the extent any assignment to an Affiliated Lender would result in the aggregate principal amount of all Construction/Term Loans held by Affiliated Lenders exceeding the Affiliated Lender Cap, the assignment of such excess amount will be void *ab initio*; and
 - (iv) as a condition to each assignment pursuant to this Section 14.4(f), the P1 Administrative Agent shall have been provided a notice in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender pursuant to which such Affiliated Lender shall waive any right to bring

any action in connection with such Construction/Term Loans against the P1 Administrative Agent, in its capacity as such.

- (g) The words “*execution*,” “*signed*,” “*signature*,” and words of like import in any Lender Assignment Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.
- (h) All assignments by a Senior Lender of all or a portion of its rights and obligations hereunder (i) with respect to any Tranche with then outstanding Construction/Term Loan Commitments shall be made only as an assignment of the same percentage of outstanding Construction/Term Loan Commitments and Construction/Term Loans and a proportionate part of all the assigning Senior Lender’s rights and obligations under this Agreement with respect to the Construction/Term Loans and Construction/Term Loan Commitments of such Tranche and (ii) with respect to any outstanding Revolving Loan Commitments, Revolving Loans, or participations in any Revolving LC, shall be made only as an assignment of the same percentage of outstanding Revolving Loan Commitments, Revolving Loans, and participations in Revolving LCs and a proportionate part of all the assigning Senior Lender’s rights and obligations under this Agreement with respect to the Revolving Loans. If a Tranche has no unused Senior Loan Commitments, assignments of outstanding Senior Loans of such Tranche may be made, together with a *pro rata* portion of such Senior Lender’s rights and obligations with respect to the Tranche subject to such assignment, in such amounts, to such persons and on such terms as are permitted by and otherwise in accordance with Section 14.4(b). This Section 14.4(h) shall not prohibit any Senior Lender from assigning all or a portion of its rights and obligations hereunder among separate Tranches on a non-*pro rata* basis among such Tranches.
- (i) No sale, assignment, transfer, negotiation or other disposition of the interests of any Senior Lender hereunder or under the other P1 Financing Documents shall be allowed if it could reasonably be expected to require securities registration under any laws or regulations of any applicable jurisdiction.
- (j) Disqualified Institutions.
 - (i) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the “**Trade Date**”) on which the assigning Senior Lender entered into a binding agreement to sell and assign all or a portion of its rights and obligations under this Agreement (including through a participation) to such Person (unless the Borrower has consented to such assignment or participation in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee that becomes a Disqualified Institution after the applicable Trade Date or

any Person that the Borrower removes from the DQ List (including as a result of the delivery of a notice pursuant to, or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (A) any additional designation or removal permitted by the foregoing shall not apply retroactively to any prior or pending assignment or participation, as applicable, to any Senior Lender or Participant and (B) any designation or removal after the Closing Date of a Person as a Disqualified Institution shall become effective three Business Days after such designation or removal. Any assignment or participation in violation of this Section 14.4(j)(i) shall not be void, but the other provisions of this Section 14.4(j) shall apply. The Borrower shall deliver notices of any designation or removal of a Disqualified Institution to the P1 Administrative Agent via email to Lodagencysservices@us.mufg.jp and AgencyDesk@us.sc.mufg.jp.

- (ii) If any assignment or participation is made to any Disqualified Institution without the Borrower's prior written consent in violation of Section 14.4(j)(i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the P1 Administrative Agent, (A) terminate any Revolving Loan Commitment of such Disqualified Institution or terminate any Revolving Loan Commitment of a Revolving Lender which has sold a participation to a Participant which is a Disqualified Institution and repay all obligations of the Borrower owing to such Disqualified Institution in connection with such Revolving Loan Commitment, (B) in the case of outstanding Construction/Term Loans held by Disqualified Institutions, purchase or prepay such Construction/Term Loans by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Construction/Term Loans or such participation in such Construction/Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder, or (C) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 14.4), all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.
- (iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to Senior Lenders or the Revolving LC Issuing Bank by the Borrower, the P1 Administrative Agent or any other Senior Lender or Revolving LC Issuing Bank, (y) attend or participate in meetings attended by the Senior Lenders, the Revolving LC Issuing Bank and the P1 Administrative Agent, or (z) access any electronic site established for the Senior Lenders or the Revolving LC Issuing Bank or confidential communications from counsel to or financial advisors of the P1 Administrative Agent, the Senior Lenders or the Revolving LC Issuing Bank and (B) (x) for purposes of any consent to any

amendment, waiver or modification of, or any action under, and for the purpose of any direction to the P1 Administrative Agent, any Senior Lender, or any Revolving LC Issuing Bank to undertake any action (or refrain from taking any action) under this Agreement or any other P1 Financing Documents, each Disqualified Institution will be deemed to have consented in the same proportion as the Senior Lenders or the Revolving LC Issuing Bank that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any Debtor Relief Plan, each Disqualified Institution party hereto hereby agrees (1) not to vote on such Debtor Relief Plan, (2) if such Disqualified Institution does vote on such Debtor Relief Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be “designated” pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Debtor Relief Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and (3) not to contest any request by any party for a determination by the Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

- (iv) The P1 Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the P1 Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Borrower and any updates thereto from time to time (collectively, the “**DQ List**”) on the Platform, including that portion of the Platform that is designated for “public side” Senior Lenders or (B) provide the DQ List to each Senior Lender requesting the same.

14.5. Benefits of Agreement

Nothing in this Agreement or any other P1 Financing Document, express or implied, shall be construed to give to any Person, other than the parties hereto, the Coordinating Lead Arrangers and Joint Bookrunners, the Documentation Agents, the Regional Coordinators, the Syndication Agents, the Global Coordinators, the Coordinating Lead Arranger, the Joint Lead Arranger, the Arrangers, the Senior Managing Agents, the P1 Intercreditor Agent, the P1 Collateral Agent, each of their successors and permitted assigns under this Agreement or any other P1 Financing Document, Participants to the extent provided in Section 14.4 and, to the extent expressly contemplated hereby, the Related Parties of each of the P1 Administrative Agent, the P1 Collateral Agent, the P1 Intercreditor Agent, the Senior Lenders, and the Revolving LC Issuing Bank, any benefit or any legal or equitable right or remedy under this Agreement.

14.6. Costs and Expenses

The Borrower shall pay (a) all reasonable and documented out-of-pocket expenses incurred by each of the P1 Administrative Agent, the P1 Collateral Agent, the Revolving LC Issuing Bank and the Senior Lenders and their Affiliates (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders, the Revolving LC Issuing Bank and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender or

Revolving LC Issuing Bank may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the preparation, negotiation, syndication, execution and delivery of this Agreement and the other P1 Financing Documents; (b) all reasonable and documented out of pocket expenses incurred by the P1 Administrative Agent, the P1 Collateral Agent, the Revolving LC Issuing Bank and the Senior Lenders (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender or Revolving LC Issuing Bank may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with any amendments, modifications or waivers of the provisions of this Agreement and the other P1 Financing Documents (whether or not the transactions contemplated hereby or thereby are consummated); (c) all reasonable and documented out-of-pocket expenses incurred by the P1 Administrative Agent and the P1 Collateral Agent (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the administration of this Agreement and the other P1 Financing Documents (whether or not the transactions contemplated hereby or thereby are consummated); (d) all reasonable and documented out-of-pocket expenses incurred by each Coordinating Lead Arranger and Joint Bookrunner, Documentation Agent, the Regional Coordinator, Syndication Agent, Global Coordinator, Coordinating Lead Arranger, Joint Lead Arranger, Arranger, and the Senior Managing Agent in connection with the initial syndication of the credit facility under this Agreement (including reasonable printing and travel expenses); and (e) all documented out-of-pocket expenses incurred by the Credit Agreement Senior Secured Parties (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders, the Revolving LC Issuing Bank and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender or Revolving LC Issuing Bank may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the enforcement or protection (other than in connection with assignment of Senior Loans or Senior Loan Commitments) of their rights in connection with this Agreement and the other P1 Financing Documents, including their rights under this Section 14.6, including in connection with any workout, restructuring or negotiations in respect of the Obligations. Notwithstanding the foregoing, in the event that either the P1 Collateral Agent or the P1 Administrative Agent reasonably believes that a conflict exists in using one counsel, each of the P1 Collateral Agent or the P1 Administrative Agent, as applicable, may engage its own counsel. Furthermore, notwithstanding anything to the contrary in Section 8.6 (*Consultants*) of the Common Terms Agreement, during the continuation of any Event of Default, the Borrower shall pay (against direct invoices) the reasonable and documented fees and expenses of any other consultants and advisors of the Credit Agreement Senior Secured Parties (in addition to the Consultants as provided in such Section 8.6 (*Consultants*) of the Common Terms Agreement); provided, that

(without limiting the obligation of the Borrower to pay such reasonable and documented fees and expenses) such fees and expenses shall be subject to separate fee agreements entered into by the Borrower acting reasonably.

14.7. Counterparts; Effectiveness

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the P1 Administrative Agent and when the P1 Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or portable document format (“pdf”) shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution,” “signed,” “signature,” and words of like import in this Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

14.8. Indemnification

- (a) The Borrower hereby agrees to indemnify each Credit Agreement Senior Secured Party, Coordinating Lead Arranger and Joint Bookrunner, Documentation Agent, the Regional Coordinator, Syndication Agent, Global Coordinator, Coordinating Lead Arranger, Joint Lead Arranger, Arranger, the Senior Managing Agent, and each Related Party of any of the foregoing Persons (each such Person being called a “**Credit Agreement Indemnitee**”) against, and hold each Credit Agreement Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including all reasonable fees, costs and expenses of counsel or consultants for any Credit Agreement Indemnitee), incurred by any Credit Agreement Indemnitee or asserted against any Credit Agreement Indemnitee by any Person arising out of, in connection with, or as a result of:
 - (i) the execution or delivery of this Agreement, any other Credit Agreement Transaction Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or the administration (other than expenses that do not constitute out-of-pocket expenses) or enforcement thereof;
 - (ii) any Senior Loan or Revolving LC or the use or proposed use of the proceeds therefrom (including any refusal by the Revolving LC Issuing Bank to honor a demand for payment under a Revolving LC if the documents presented in connection with such demand do not strictly comply with the terms of such Revolving LC);

- (iii) any actual or alleged presence, Release or threatened Release of Hazardous Materials on, from or related to the Project that could reasonably result in an Environmental Claim related in any way to the Project, the Rio Grande Facility, the Land or any property owned or operated by the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity, or any Environmental Affiliate or any liability pursuant to an Environmental Law related in any way to the Project, the Rio Grande Facility, the Land, the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity;
- (iv) any actual or prospective claim (including Environmental Claims), litigation, investigation or proceeding relating to any of the foregoing, whether based on common law, contract, tort or any other theory, whether brought by the Borrower or any of the Borrower's members, managers or creditors or by any other Person, and regardless of whether any Credit Agreement Indemnitee is a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other P1 Financing Documents is consummated, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Credit Agreement Indemnitee; or
- (v) any claim, demand or liability for broker's or finder's or placement fees or similar commissions, whether or not payable by the Borrower, alleged to have been incurred in connection with such transactions, other than any broker's or finder's fees payable to Persons engaged by any Credit Agreement Senior Secured Party, the Coordinating Lead Arrangers and Joint Bookrunners, the Documentation Agents, the Regional Coordinators, the Syndication Agents, the Global Coordinators, the Coordinating Lead Arranger, the Joint Lead Arranger, the Arrangers, the Senior Managing Agents, or any Affiliates or Related Parties of any of the foregoing;

provided, that such indemnity shall not, as to any Credit Agreement Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a final and Non-Appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Credit Agreement Indemnitee or breach by such Credit Agreement Indemnitee of any provisions of any P1 Financing Document to which it is a party.

- (b) To the extent that the Borrower for any reason fails to pay any amount required under Section 14.6 or Section 14.8(a) above to be paid by it to any of the P1 Administrative Agent, the Revolving LC Issuing Bank or any Related Party of any of the foregoing, each Senior Lender severally agrees to pay to the P1 Administrative Agent, the Revolving LC Issuing Bank, or such Related Party, as the case may be, such Senior Lender's ratable share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, based on the aggregate of such Senior Lender's Senior Loan Commitments to the aggregate of all Senior Loan Commitments; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the P1 Administrative Agent, the Revolving LC Issuing Bank, in each case in its capacity as such, or against any Related Party of any of the foregoing acting for the P1

Administrative Agent, or the Revolving LC Issuing Bank, in each case in its capacity as such. The obligations of the Senior Lenders under this Section 14.8(b) are subject to the provisions of Section 2.10. The obligations of the Senior Lenders to make payments pursuant to this Section 14.8(b) are several and not joint and shall survive the payment in full of the Obligations and the termination of this Agreement. The failure of any Senior Lender to make payments on any date required hereunder shall not relieve any other Senior Lender of its corresponding obligation to do so on such date, and no Senior Lender shall be responsible for the failure of any other Senior Lender to do so.

- (c) Without duplication of Section 8.10(b) (*Indemnification by Borrower*) of the Common Terms Agreement or any other indemnification provision in any P1 Financing Document providing for indemnification by any Senior Secured Party in favor of the P1 Collateral Agent, the P1 Intercreditor Agent or any Related Party of any of the foregoing, to the extent that the Borrower for any reason fails to pay any amount required under Section 8.7 (*Costs and Expenses*) or Section 8.10(a) (*Indemnification by Borrower*) of the Common Terms Agreement or any analogous costs and expenses or indemnity provisions of any P1 Financing Document to be paid by it to any of the P1 Intercreditor Agent, the P1 Collateral Agent or any Related Party of any of the foregoing, each Senior Lender severally agrees to pay to the P1 Intercreditor Agent, the P1 Collateral Agent or such Related Party, as the case may be, the ratable share of such unpaid amount (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), based on the aggregate of such Senior Lender's Senior Loan Commitments to the aggregate of all Senior Secured Debt Commitments; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the P1 Intercreditor Agent, the P1 Collateral Agent or the applicable Related Party, in its capacity as such. The obligations of the Senior Lenders to make payments pursuant to this Section 14.8(c) are several and not joint and shall survive the payment in full of the Obligations and the termination of this Agreement. The failure of any Senior Lender to make payments on any date required hereunder shall not relieve any other Senior Lender of its corresponding obligation to do so on such date, and no Senior Lender shall be responsible for the failure of any other Senior Lender to do so.
- (d) All amounts due under this Section 14.8 shall be payable promptly after demand therefor.
- (e) The Borrower agrees that, without the Credit Agreement Indemnitee's prior written consent, it will not settle, compromise or consent to the entry of any judgment in any pending or threatened (in writing) claim, action or proceeding in respect of which indemnification could be sought by or on behalf of such Credit Agreement Indemnitee under this Section 14.8 (whether or not any Credit Agreement Indemnitee is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of such Credit Agreement Indemnitee from all liability arising out of such claim, action or proceeding. In the event that a Credit Agreement Indemnitee is requested or required to appear as a witness in any action brought by or on behalf of or against the Borrower or any Affiliate thereof in which such Credit Agreement Indemnitee is not named as a defendant, the Borrower agrees to reimburse such Credit Agreement Indemnitee for all

reasonable expenses incurred by it in connection with such Credit Agreement Indemnitee appearing and preparing to appear as such a witness, including the reasonable and documented fees and disbursements of its legal counsel. In the case of any claim brought against a Credit Agreement Indemnitee for which the Borrower may be responsible under this Section 14.8, the P1 Administrative Agent, the P1 Collateral Agent, the Revolving LC Issuing Bank and the Senior Lenders agree (at the expense of the Borrower) to execute such instruments and documents and cooperate as reasonably requested by the Borrower in connection with the Borrower's defense, settlement or compromise of such claim, action or proceeding.

- (f) The P1 Intercreditor Agent and the Related Parties of any of the P1 Administrative Agent, the P1 Collateral Agent, the P1 Intercreditor Agent and the Revolving LC Issuing Bank are express third party beneficiaries of this Section 14.8.
- (g) This Section 14.8 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

14.9. Interest Rate Limitation

Notwithstanding anything to the contrary contained in any P1 Financing Document, the interest paid or agreed to be paid under the P1 Financing Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Government Rule (the "**Maximum Rate**"). If the P1 Administrative Agent or any Senior Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of such Senior Lender's Senior Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the P1 Administrative Agent or any Senior Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Government Rule, (a) characterize any payment that is not principal as an expense, fee or premium, rather than interest, (b) exclude prepayments and the effects thereof, and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

14.10. No Waiver; Cumulative Remedies

No failure by any Credit Agreement Senior Secured Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other P1 Financing Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other P1 Financing Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

14.11. Notices and Other Communications.

- (a) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or sent by email to the

address(es), facsimile number or email address specified for the Borrower, the P1 Administrative Agent, the P1 Collateral Agent, the Senior Lenders or the Revolving LC Issuing Bank, as applicable, on Schedule 14.11.

- (b) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; and notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, they shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications shall be effective as provided in Schedule 14.11.
- (c) Unless otherwise prescribed, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided, that if such notice or other communication is not received during the normal business hours of the recipient, such notice or communication shall be deemed to have been received at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in Schedule 14.11 of notification that such notice or communication is available and identifying the website address therefor. Notwithstanding the above, all notices delivered by the Borrower to the P1 Administrative Agent through electronic communications shall be followed by the delivery of a hard copy.
- (d) Each of the Borrower, the P1 Administrative Agent and the P1 Collateral Agent may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each Senior Lender may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the Borrower, the P1 Administrative Agent, the P1 Collateral Agent and the Revolving LC Issuing Bank. The Revolving LC Issuing Bank may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the Borrower, the P1 Administrative Agent and the P1 Collateral Agent.
- (e) The P1 Administrative Agent, the P1 Collateral Agent, the Revolving LC Issuing Bank and the Senior Lenders shall be entitled to rely and act upon any written notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the P1 Administrative Agent, the P1 Collateral Agent, the Senior Lenders, the Revolving LC Issuing Bank and the Related Parties of each of them for all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the P1 Administrative Agent, the P1 Collateral Agent, the Senior Lenders and the Revolving LC Issuing Bank by the Borrower may be recorded by the P1 Administrative Agent the P1 Collateral Agent, the Senior

Lenders, the Revolving LC Issuing Bank, as applicable, and each of the parties hereto hereby consents to such recording.

- (f) Notwithstanding the above, nothing herein shall prejudice the right of the P1 Administrative Agent, the P1 Collateral Agent, any of the Senior Lenders or the Revolving LC Issuing Bank to give any notice or other communication pursuant to any P1 Financing Document in any other manner specified in such P1 Financing Document.
- (g) the Borrower hereby agrees that it will provide to the P1 Administrative Agent all information, documents and other materials that it is obligated to furnish to the P1 Administrative Agent pursuant to the P1 Financing Documents, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to any Senior Loan Borrowing, (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any Default or Event of Default, or (iv) is required to be delivered to satisfy any condition precedent to any Senior Loan Borrowing (all such non-excluded communications being referred to herein collectively as “**Communications**”), by transmitting the Communications in an electronic/soft medium in a format acceptable to the P1 Administrative Agent at the email addresses specified in Schedule 14.11. In addition, the Borrower agrees to continue to provide the Communications to the P1 Administrative Agent in the manner specified in the P1 Financing Documents but only to the extent requested by the P1 Administrative Agent.
- (h) the Borrower further agrees that the P1 Administrative Agent may make the Communications available to the Senior Lenders and the Revolving LC Issuing Bank by posting the Communications on an internet website that may, from time to time, be notified to the Senior Lenders and the Revolving LC Issuing Bank or a substantially similar electronic transmission system (the “**Platform**”). The costs and expenses incurred by the P1 Administrative Agent in creating and maintaining the Platform shall be paid by Borrower in accordance with Section 14.6.
- (i) THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE”. THE P1 ADMINISTRATIVE AGENT DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE P1 ADMINISTRATIVE AGENT IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE P1 ADMINISTRATIVE AGENT OR ANY AFFILIATE THEREOF OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, “**AGENT PARTIES**”) HAVE ANY LIABILITY TO THE BORROWER, THE REVOLVING LC ISSUING BANK, ANY SENIOR LENDER, OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL,

INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR ANY AGENT PARTY'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY AGENT PARTY IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH AGENT PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

14.12. Patriot Act Notice

Each of the P1 Administrative Agent, the P1 Collateral Agent, the Senior Lenders and the Revolving LC Issuing Bank hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender or the Revolving LC Issuing Bank, as applicable, to identify the Borrower in accordance with the Patriot Act.

14.13. Payments Set Aside

To the extent that any payment by or on behalf of the Borrower is made to the P1 Administrative Agent, the P1 Collateral Agent, any Senior Lender or the Revolving LC Issuing Bank, or the P1 Administrative Agent, the P1 Collateral Agent, any Senior Lender or the Revolving LC Issuing Bank (as the case may be) exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender or the Revolving LC Issuing Bank in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any bankruptcy or insolvency proceeding or otherwise, then (a) to the extent of such recovery, the Obligation or part thereof originally intended to be satisfied by such payment shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Senior Lender severally agrees to pay to the P1 Administrative Agent, the P1 Collateral Agent or the Revolving LC Issuing Bank upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the P1 Administrative Agent, the P1 Collateral Agent or the Revolving LC Issuing Bank, as the case may be *plus* interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Senior Lenders under this Section 14.13 shall survive the payment in full of the Obligations and the termination of this Agreement.

14.14. Right of Setoff

Each of the Senior Lenders, the Revolving LC Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time during the continuance of an Event of Default, to the fullest extent permitted by applicable Government Rule, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Senior Lender, the Revolving LC Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower against any and all of the

Obligations of the Borrower now or hereafter existing under this Agreement or any other P1 Financing Document to such Senior Lender or the Revolving LC Issuing Bank, irrespective of whether or not such Senior Lender or Revolving LC Issuing Bank shall have made any demand under this Agreement or any other P1 Financing Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Senior Lender or Revolving LC Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (a) all amounts so set off shall be paid over immediately to the P1 Administrative Agent for further application in accordance with this Section 14.4 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the P1 Administrative Agent, the P1 Collateral Agent, the Revolving LC Issuing Bank, and the Senior Lenders, and (b) the Defaulting Lender shall provide promptly to the P1 Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each of the Senior Lenders, the Revolving LC Issuing Bank and their respective Affiliates under this Section 14.14 are in addition to other rights and remedies (including other rights of setoff) that such Senior Lender, the Revolving LC Issuing Bank or their respective Affiliates may have. Each of the Senior Lenders and Revolving LC Issuing Bank agrees to notify the Borrower and the P1 Administrative Agent promptly after any such setoff and application; provided, that the failure to give such notice shall not affect the validity of such setoff and application.

14.15. Severability

If any provision of this Agreement or any other P1 Financing Document is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other P1 Financing Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

14.16. Survival

Notwithstanding anything in this Agreement to the contrary, Section 5.1, Section 5.3, Section 5.5, Section 5.6, Section 13.6, Section 14.3, Section 14.6, Section 14.8, Section 14.11, Section 14.13, this Section 14.16, Section 14.18, and Section 14.20 shall survive any termination of this Agreement. In addition, each representation and warranty made hereunder and in any other P1 Financing Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties shall be considered to have been relied upon by the Credit Agreement Senior Secured Parties regardless of any investigation made by any Credit Agreement Senior Secured Party or on their behalf and notwithstanding that the Credit Agreement Senior Secured Parties may have had notice or knowledge of any Default or Event of Default at the time of the Senior Loan Borrowing, and shall continue in full force and effect as of the date made or any date referred to herein as long as any Senior Loan or any other Obligation hereunder or under any other P1 Financing Document shall remain unpaid or unsatisfied.

14.17. Treatment of Certain Information; Confidentiality

The P1 Administrative Agent, the P1 Collateral Agent, each of the Senior Lenders and the Revolving LC Issuing Bank agrees to maintain the confidentiality of the Credit Agreement Information, except that Credit Agreement Information may be disclosed (a) to its Affiliates (including branches) and to its and its Affiliates' respective shareholders, members, partners, directors, officers, employees, agents, advisors, auditors, service providers and representatives (provided, that the Persons to whom such disclosure is made will be informed prior to disclosure of the confidential nature of such Credit Agreement Information and instructed to keep such Credit Agreement Information confidential); (b) to the extent requested or required by any regulatory authority purporting to have jurisdiction over it or to any Federal Reserve Bank or central bank in connection with a pledge or assignment pursuant to Section 14.4(e); (c) to the extent required by applicable Government Rule or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or under any other P1 Financing Document or any suit, action or proceeding relating to this Agreement or any other P1 Financing Document or the enforcement of rights hereunder or thereunder (including any actual or prospective purchaser of Collateral); (f) subject to an agreement containing provisions substantially the same as those of this Section 14.17, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement (or such Eligible Assignee or Participant's or prospective Eligible Assignee or Participant's professional advisor), (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of the Borrower, or (iii) any Person (and any of its officers, directors, employees, agents or advisors) that may enter into or support, directly or indirectly, or that may be considering entering into or supporting, directly or indirectly, either (A) contractual arrangements with the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender, or the Revolving LC Issuing Bank or any Affiliates thereof, pursuant to which all or any portion of the risks, rights, benefits or obligations under or with respect to any Senior Loan or P1 Financing Document is transferred to such Person or (B) an actual or proposed securitization or collateralization of, or similar transaction relating to, all or a part of any amounts payable to or for the benefit of any Senior Lender under any P1 Financing Document (including any rating agency); (g) with the consent of the Borrower (which consent shall not unreasonably be withheld, conditioned or delayed); (h) to any state, federal or foreign authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating the P1 Administrative Agent, the P1 Collateral Agent, any Senior Lender or the Revolving LC Issuing Bank or any of their respective Affiliates; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Credit Agreement Information relating to the Borrower received by it from any Senior Lender, the Revolving LC Issuing Bank, the P1 Administrative Agent or the P1 Collateral Agent, as applicable); or (j) to any party providing (and any brokers arranging) any Credit Agreement Senior Secured Party insurance or reinsurance or other direct or indirect credit protection (including credit default swaps) with respect to its Senior Loans or Revolving LCs. In addition, the P1 Administrative Agent, the P1 Collateral Agent, any Senior Lender or the Revolving LC Issuing Bank may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the P1 Administrative Agent, the P1 Collateral Agent, the Senior Lenders and the Revolving LC Issuing Bank in connection with the numbering,

administration, settlement and management of this Agreement, the other P1 Financing Documents, the Senior Loan Commitments, and the Senior Loan Borrowings. For the purposes of this Section 14.17, “**Credit Agreement Information**” means written information that is furnished by or on behalf of the Borrower, the Pledgor, the Equity Owners or any of their Affiliates to the P1 Administrative Agent, the P1 Collateral Agent, any Senior Lender or the Revolving LC Issuing Bank pursuant to or in connection with any P1 Financing Document, relating to the assets and business of the Borrower, the Pledgor, the Equity Owners, the RG Facility Entities or any of their Affiliates, but does not include any such information that (x) is or becomes generally available to the public other than as a result of a breach by the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender or the Revolving LC Issuing Bank of its obligations hereunder, (y) is or becomes available to the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender or the Revolving LC Issuing Bank from a source other than the Borrower, the Pledgor, the Equity Owners or any of their Affiliates, as applicable, that is not, to the knowledge of the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender or the Revolving LC Issuing Bank, acting in violation of a confidentiality obligation with the Borrower, the Pledgor, the Equity Owners or any of their Affiliates, as applicable, or (z) is independently compiled by the P1 Administrative Agent, the P1 Collateral Agent, such Senior Lender or the Revolving LC Issuing Bank, as evidenced by their records, without the use of the Credit Agreement Information. Any Person required to maintain the confidentiality of Credit Agreement Information as provided in this Section 14.17 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Credit Agreement Information as such Person would accord to its own confidential information.

Additionally, disclosure of any confidential document that contains confidentiality restrictions that require any Loan Party or any of their Affiliates, as applicable, to comply with a restricted disclosure procedure, or if any Offtake Agreement contains commercially sensitive information and is identified as such by the Borrower to the P1 Administrative Agent (each such document, a “Restricted Document”) shall only be permitted subject to compliance with the following procedures: Restricted Documents may be disclosed only to the P1 Administrative Agent and the applicable Consultant or legal advisor (to the extent required by such Consultant or legal advisor in order to deliver reports, opinions or certifications required pursuant to any P1 Financing Documents) (subject to (a) compliance with any disclosure procedure required by the counterparty thereto, including execution of incremental confidentiality undertakings or non-disclosure agreements, to the extent necessary or advisable, by the recipients of such documentation and/or (b) redaction of commercially sensitive information in any such disclosed Restricted Documents provided to the P1 Administrative Agent or the applicable Consultant or legal advisor).

14.18. Waiver of Consequential Damages, Etc.

Except with respect to any indemnification obligations of the Borrower under Section 13.6 and Section 14.8 or any other indemnification provisions of the Borrower under any other P1 Financing Document, to the fullest extent permitted by applicable Government Rule, no Party hereto shall assert, and each Party hereto hereby waives, any claim against any other Party hereto or their Related Parties, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other

P1 Financing Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Construction/Term Loan, any Revolving LC or the use of the proceeds thereof. No Party hereto or its Related Parties shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other P1 Financing Documents or the transactions contemplated hereby or thereby.

14.19. Waiver of Litigation Payments

To the extent that any Party hereto may, in any action, suit or proceeding brought in any of the courts referred to in Section 14.3(b) or elsewhere arising out of or in connection with this Agreement or any other P1 Financing Document to which it is a party, be entitled to the benefit of any provision of law requiring any other Party hereto in such action, suit or proceeding to post security for the costs of such Person or to post a bond or to take similar action, each such Person hereby irrevocably waives such benefit, in each case to the fullest extent now or in the future permitted under the laws of the State of New York or, as the case may be, the jurisdiction in which such court is located.

14.20. Reinstatement

This Agreement and the obligations of the Borrower hereunder shall automatically be reinstated if and to the extent that for any reason any payment made pursuant to this Agreement is rescinded or must otherwise be restored or returned, whether as a result of any proceedings in bankruptcy or reorganization or otherwise with respect to the Borrower or any other Person or as a result of any settlement or compromise with any Person (including the Borrower) in respect of such payment, and the Borrower shall pay the Credit Agreement Senior Secured Parties on demand all of their reasonable costs and expenses (including reasonable fees, expenses and disbursements of counsel) incurred by such parties in connection with such rescission or restoration.

14.21. No Recourse

The obligations of the Borrower under this Agreement and each other Credit Agreement Transaction Document to which it is a party, and any certificate, notice, instrument or document delivered pursuant hereto or thereto, are obligations solely of the Borrower and do not constitute a debt or obligation of (and no recourse shall be made with respect to) the Non-Recourse Parties, except as hereinafter set forth in this Section 14.21 or as expressly provided in any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. No action under or in connection with this Agreement or any other P1 Financing Documents to which the Borrower is a party shall be brought against any Non-Recourse Party, and no judgment for any deficiency upon the obligations hereunder or thereunder shall be obtainable by any Senior Secured Party against any Non-Recourse Party, except as hereinafter expressly set forth in this Section 14.21 or as expressly provided in any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained in this Section 14.21 shall in any manner or way (i) restrict the remedies available to the P1 Intercreditor Agent, the P1 Collateral Agent, any Senior Secured Debt Holder Representative or any other Senior Secured Party to realize upon the Collateral or under any Credit Agreement Transaction Document, or constitute or be deemed to be a release of the obligations secured by (or impair the enforceability of) the Liens and the security interests and possessory rights created by or arising from any P1

Financing Document or (ii) release, or be deemed to release, any Non-Recourse Party from liability for its own willful misrepresentation, fraudulent actions, gross negligence or willful misconduct or from any of its obligations or liabilities under any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. The limitations on recourse set forth in this Section 14.21 shall survive the Discharge Date.

14.22. P1 Intercreditor Agreement

Any actions, consents, approvals, authorizations or discretion taken, given, made or exercised, or not taken, given, made or exercised by the P1 Administrative Agent, acting as the Senior Secured Debt Holder Representative on behalf of the Senior Lenders in accordance with the Collateral and Intercreditor Agreement, shall be binding on each Senior Lender. Notwithstanding anything to the contrary herein, in the case of any inconsistency between this Agreement and the Collateral and Intercreditor Agreement, the Collateral and Intercreditor Agreement shall govern.

14.23. Termination

This Agreement shall terminate and shall have no force and effect (except with respect to the provisions that expressly survive termination of this Agreement) if (a) all Obligations have been indefeasibly paid in full and all Senior Loan Commitments have been terminated and the P1 Administrative Agent shall have given the notice required by Section 2.9(a) (*Payment in Full of Senior Secured Debt*) of the Common Terms Agreement and (b) all Revolving LCs have been terminated or cancelled.

14.24. Consultants

Notwithstanding anything to the contrary in Section 8.6 (*Consultants*) of the Common Terms Agreement, the Borrower shall appoint as any replacement Consultant prior to the Credit Agreement Discharge Date the Person designated by the Majority Senior Lenders (after consultation with the Borrower if no Event of Default exists).

14.25. No Fiduciary Duty

The Borrower acknowledges and agrees that (a) no fiduciary, advisory, or agency relationship between the Borrower and any Credit Agreement Senior Secured Party or any of their Affiliates is intended to be or has been created in respect of any of the transactions contemplated by this Agreement or any P1 Financing Document, irrespective of whether any Credit Agreement Senior Secured Parties or their Affiliates have advised or is advising the Borrower on other matters, (b) the Credit Agreement Senior Secured Parties and their Affiliates, on the one hand, and the Borrower, on the other hand, have an arm's-length business relationship that does not directly or indirectly give rise to, nor does the Borrower rely on, any fiduciary duty on the part of any Credit Agreement Senior Secured Party or any of their Affiliates, and (c) the Borrower waives, to the fullest extent permitted by law, any claims that the Borrower may have against any Credit Agreement Senior Secured Party or any of its Affiliates for breach of fiduciary duty or alleged breach of fiduciary duty and agree that the Credit Agreement Senior Secured Parties and their respective Affiliates shall have no liability (whether direct or indirect) to the Borrower in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Borrower, including the Borrower's equity holders, employees, or other creditors.

14.26. Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any P1 Financing Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any P1 Financing Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder that may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other P1 Financing Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

14.27. Cashless Settlement.

Notwithstanding anything to the contrary contained in this Agreement, any Senior Lender may exchange, continue or rollover all or a portion of its Senior Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the P1 Administrative Agent and such Senior Lender.

14.28. Restricted Lenders

Notwithstanding anything to the contrary in Section 6.29 (Sanctions), Sections 8.7(c) and (d) (Compliance with Government Rules, Etc.), or Section 9.22 (Sanctions) of this Agreement, in relation to each Senior Lender that is incorporated in a non-US jurisdiction or that otherwise notifies the P1 Administrative Agent to this effect (each a “**Restricted Lender**”), the representations and undertakings in the provisions of such Sections shall only apply for the benefit of such Restricted Lender and shall only be given by the Borrower to such Restricted Lender to the extent that the sanctions provisions would not result in any violation of, conflict with or liability under (i) EU Regulation (EC) 2271/96, (ii) section 7 of the foreign trade rules (AWV) (Außenwirtschaftsverordnung) (in connection with section 4 paragraph 1 no. 3 and Section 19 paragraph 3 no. 1(a) foreign trade law (AWG) (Außenwirtschaftsgesetz)), or (iii) a similar anti-boycott statute or other applicable Government Rule as in effect in that Restricted Lender’s home jurisdiction.

14.29. Disclosure in Connection with Equator Principles.

The P1 Administrative Agent may disclose to the Equator Principles Association (or any successor thereof) the following information in connection with the Project: Project name, Closing Date, sector, and host country.

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DEFINITIONS

"Acceptable Bank" means a bank whose long term unsecured and unguaranteed debt is rated ~~by~~ at least "A-" (or the then-equivalent rating) by S&P and "A3" (or the then-equivalent rating) one of S&P, Fitch or Moody's and at least one such rating is equal to or better than "A-" by S&P or Fitch or "A3" by Moody's and, in any case, with ~~has~~ a combined capital and surplus of at least \$1,000,000,000.

"Acceptable Distribution Guarantor" means a Person that is rated by at least one of S&P, Fitch, or Moody's and at least one such rating is equal to or better than "A-" by S&P or Fitch or "A3" by Moody's.

"ACQ" has the meaning assigned to such term in the applicable Credit Agreement Designated Offtake Agreement.

"Additional Material Project Document" means any Project Document entered into by the Borrower with any other Person subsequent to the Closing Date that:

- (a) replaces or substitutes for an existing Material Project Document;
- (b) is a guarantee provided in favor of the Borrower by a guarantor or a counterparty, in each case, under a Material Project Document;
- (c) is the APCI License Agreement (at the time of assignment to the Borrower);
- (d) ~~any is a~~ Time Charter Party Agreements entered into after the Closing Date pursuant to which the Borrower maintains LNG Tanker capacity required to ship the aggregate volume of LNG subject to delivery obligations at such time pursuant to Credit Agreement Designated Offtake Agreements that are on Delivered terms; or
- (e) except as provided in clauses (a), (b), (c), and or (d) above, contains obligations and liabilities equal to or in excess of \$150,000,000 over its term and a committed term of at least eight years,

provided, that the term Additional Material Project Document shall not include (w) any Offtake Agreement that is not a Designated Offtake Agreement, and any guarantee thereof, (x) any Time Charter Party Agreement other than those referenced in the foregoing clause (d), (y) any Real Property Document, and (z) any document relating to Senior Secured Debt entered into in accordance with the P1 Financing Documents.

"Administrator Affiliate" has the meaning assigned to such term in the Definitions Agreement.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliated Lender" means, at any time, any Senior Lender that is an Equity Owner or any Affiliate of an Equity Owner (other than the Pledgor, the Borrower, any RG Facility Entity, any Debt Fund Affiliate, or any natural Person) or a Non-Debt Fund Affiliate of an Equity Owner at such time.

"Affiliated Lender Assignment Agreement" has the meaning assigned to such term in Section 14.4(f)(i).

"Affiliated Lender Cap" has the meaning assigned to such term in Section 14.4(f)(iii).

"Agent Parties" has the meaning assigned to such term in Section 14.11(i).

"Aggregate Construction/Term Loan Commitment" means \$10,300,000,000, as the same may be reduced in accordance with Section 2.4.

"Aggregate Construction/Term Loan Tranche A Commitment" means the amount specified in Section 2.1(f) in respect of Tranche A, as the same may be reduced in accordance with Section 2.4.

"Aggregate Construction/Term Loan Tranche Commitment" means, with respect to any Tranche, the amount specified in Section 2.1(f) in respect of such Tranche, as the same may be reduced in accordance with Section 2.4.

"Aggregate Funded Equity" has the meaning assigned to such term in the P1 Equity Contribution Agreement.

"Aggregate Revolving Loan Commitment" means \$500,000,000, as the same may be reduced in accordance with Section 2.9.

"Agreement" has the meaning assigned to such term in the Preamble.

"Alternative Pipelines" has the meaning assigned to such term in Section 6.32.

"Amortization Schedule" means the amortization schedule set forth in Schedule 4.1(a).

"Annual Capital Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual Capital Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual Facility Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual O&M Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual O&M Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual Operating Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual Operating Plan" has the meaning assigned to such term in the Definitions Agreement.

"Anti-Corruption Laws" means the U.S. Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§78m, 78dd-1 through 78dd-3 and 78ff, et seq., and all similar laws, rules, and regulations of any jurisdiction prohibiting bribery and corruption, including the U.K. Bribery Act, applicable to the Borrower or any of its subsidiaries at the relevant time.

"Anti-Terrorism and Money Laundering Laws" means any of the following (a) Section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions

With Persons Who Commit, Threaten to Commit, or Support Terrorism (Title 12, Part 595 of the US Code of Federal Regulations), (b) the Terrorism Sanctions Regulations (Title 31 Part 595 of the US Code of Federal Regulations), (c) the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the US Code of Federal Regulations), (d) the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the US Code of Federal Regulations), (e) the USA Patriot Act of 2001 (Pub. L. No. 107-56), (f) the U.S. Money Laundering Control Act of 1986, as amended, (g) the Bank Secrecy Act, 31 U.S.C. sections 5301 et seq., (h) Laundering of Monetary Instruments, 18 U.S.C. section 1956, (i) Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 18 U.S.C. section 1957, (j) the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations (Title 31 Part 103 of the US Code of Federal Regulations), (k) any other similar federal Government Rule having the force of law and relating to money laundering, terrorist acts or acts of war, and (l) any regulations promulgated under any of the foregoing.

"Applicable Margin" means (a) in respect of Senior Loans that are SOFR Loans, 2.25% and (b) in respect of Senior Loans that are Base Rate Loans, 1.25%.

"Approved Fund" means any fund administered or managed by (a) a Senior Lender, (b) an Affiliate of a Senior Lender, or (c) an entity or an Affiliate of an entity that administers or manages a Senior Lender.

"Approved Owners" means (a) Global Infrastructure Management, LLC, (b) Devonshire Investment Pte. Ltd., (c) MIC TI Holding Company 2 RSC Limited, (d) Global LNG North America Corp., and (e) to the extent satisfying the KYC Requirements, any other Person approved by the Majority Senior Lenders.

"Arrangers" means KfW IPEX-Bank GmbH and The Korea Development Bank, in each case, not in its individual capacity, but as an arranger hereunder and any successors and permitted assigns.

"Asset Sale Proceeds" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Availability Period" means, as applicable, (a) with respect to the Construction/Term Loan Commitments, the Construction/Term Loan Availability Period and (b) with respect to the Revolving Loan Commitments and the Revolving ~~LC~~ **Issuing Bank's commitment to issue Revolving LCs** the Revolving Loan Availability Period.

"Available Aggregate Revolving Loan Commitment" means, at any time (a) the Aggregate Revolving Loan Commitment *minus* (b) the Revolving LC Exposure of all Revolving Lenders.

"Available Revolving Loan Commitment" means, with respect to any Revolving Lender at any time (a) such Revolving Lender's Revolving Loan Commitment *minus* (b) such Revolving Lender's Revolving LC Exposure.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 5.7(d).

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“Bail-In Legislation” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time that is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“Bank Fee Letters” means each of:

- (a) the P1 Administrative Agent Fee Letter;
- (b) the Upfront Fee Letter;
- (c) the Revolving LC Issuing Bank Fee Letter; and
- (d) each of the other fee letters entered into by the Borrower and the Senior Lenders (or their Affiliates) on or prior to the Closing Date in respect of the credit facilities provided hereunder.

“Bank Financing Documents” means (a) this Agreement, (b) the Bank Fee Letters, (c) the other financing and security agreements, documents and instruments delivered in connection with this Agreement, and (d) each other document designated as a Bank Financing Document by the Borrower and the P1 Administrative Agent.

“Bankruptcy” means, with respect to any Person, the occurrence of any of the following events, conditions or circumstances:

- (a) such Person shall file a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer or consent seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term “acquiesce,” as used in this definition, includes the failure to file in a timely manner a petition or motion to vacate or discharge any order, judgment or decree after entry of such order, judgment or decree);
- (b) a case or other proceeding shall be commenced against such Person without the consent or acquiescence of such Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief with respect to such Person or its debts under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part

of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of sixty consecutive days;

- (c) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against such Person seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code, or any other present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, and such Person shall acquiesce in the entry of such order, judgment or decree or such order, judgment or decree shall remain undischarged, unvacated or unstayed for ninety days (whether or not consecutive) from the date of entry thereof, or any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its property shall be appointed without the consent or acquiescence of such Person and such appointment shall remain unvacated and unstayed for an aggregate of ninety days (whether or not consecutive);
- (d) such Person shall admit in writing its inability to pay its debts as they mature or shall generally not be paying its debts as they become due;
- (e) such Person shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors;
- (f) such Person shall take any corporate or partnership action for the purpose of effecting any of the foregoing; or
- (g) an order for relief shall be entered in respect of such Person under the Bankruptcy Code.

Section 1.2(d) applies to the definition of Bankruptcy, as used in any other P1 Financing Document.

"Bankruptcy Code" means 11 U.S.C. § 101 et. seq.

"Base Committed Quantity" means 844.880 million MMBtu (equivalent to approximately 16.19 MTPA), being the aggregate ACQ under the Initial Offtake Agreements; provided, that (a) following the full payment of the required amount upon any LNG Sales Mandatory Prepayment, the Base Committed Quantity will be equal to the aggregate ACQ under the Credit Agreement Designated Offtake Agreements used to calculate the amount of Senior Secured Debt that the Borrower is not required to repay upon an LNG Sales Mandatory Prepayment Event under Section 8.5(b), (b) to the extent that any other Offtake Agreement becomes a Credit Agreement Designated Offtake Agreement or an existing Credit Agreement Designated Offtake Agreement is amended to adjust the quantity of LNG contracted to be sold thereunder, the Base Committed Quantity will be equal to the aggregate ACQ under such Credit Agreement Designated Offtake Agreements as at such time, and (c) following any other mandatory prepayment or voluntary prepayment of Senior Secured Debt, the Base Committed Quantity will be reduced to the minimum ACQ under the Credit Agreement Designated Offtake Agreements in effect at such time that is required to achieve a Credit Agreement Projected DSCR of at least 1.45:1.00 based on the Base Case Forecast updated only to reflect such prepayment.

"Base Rate" means, for any day, a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day *plus* 0.50%, and

(c) Daily Compounded SOFR in effect on such day *plus* 1.00%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or Daily Compounded SOFR shall be effective from and including the effective date of such change in the Base Rate, the Federal Funds Effective Rate or Daily Compounded SOFR, respectively.

“Base Rate Loan” means any Senior Loan bearing interest at a rate determined by reference to the Base Rate and the provisions of Article 2 and Article 4.

“Benchmark” means, initially, Daily Compounded SOFR; provided, that if a Benchmark Transition Event has occurred with respect to Daily Compounded SOFR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 5.7(a).

“Benchmark Replacement” means, with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by the P1 Administrative Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other P1 Financing Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the P1 Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

- (a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof); or
- (b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) have been determined and announced by the regulatory supervisor for the administrator of such

Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, if such Benchmark is a term rate, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

- (a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof);
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof); or
- (c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, if such Benchmark is a term rate, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current

Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Start Date" means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

"Benchmark Unavailability Period" means the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any P1 Financing Document in accordance with Section 5.7 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any P1 Financing Document in accordance with Section 5.7.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Borrower" has the meaning assigned to such term in the Preamble.

"Borrower Advance Certificate" means a certificate of an Authorized Officer of the Borrower delivered pursuant to Section 7.2(c) and if applicable pursuant to Section 7.3(c), substantially in the form of Exhibit K.

"Borrower Term Conversion Certificate" means a certificate of an Authorized Officer of the Borrower with respect to the Term Conversion Date substantially in the form of Exhibit M.

"Borrowing Date" means, with respect to each Senior Loan Borrowing, the date on which funds are disbursed by the Senior Lenders (or the P1 Administrative Agent on their behalf) to the Borrower in accordance with, with respect to a Construction/Term Loan Borrowing, Section 2.3 and Section 2.10, and with respect to a Revolving Loan Borrowing, Section 2.8 and Section 2.10.

"Borrowing Notice" means, as applicable, a Construction/Term Loan Borrowing Notice and a Revolving Loan Borrowing Notice.

"Canada Blocked Person" means (i) a "terrorist group" as defined for the purposes of Part II.1 of the Criminal Code (Canada), as amended or (ii) a Person identified in or pursuant to (w) Part II.1 of the Criminal Code (Canada), as amended or (x) the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, as amended or (y) the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), as amended or (z) regulations or orders promulgated pursuant to the Special Economic Measures Act (Canada), as amended, the United Nations Act (Canada), as amended, or the Freezing Assets of Corrupt Foreign Officials Act (Canada), as amended, in any case pursuant to this clause (ii) as a Person in respect of whose property or benefit a holder of Notes would be prohibited from entering into or facilitating a related financial transaction.

“Capital Improvement Completion Date” means the date when the Independent Engineer shall have certified in writing to the P1 Intercreditor Agent that completion of the applicable Capital Improvement has occurred.

“Cash Equity Financing” means the commitment of the Pledgor, pursuant to the P1 Equity Contribution Agreement, to directly or indirectly make cash contributions to the Borrower up to the Remaining Equity Amount (as defined in the P1 Equity Contribution Agreement).

“CD Pre-Completion Distribution Release Conditions” means the satisfaction or waiver of each of the following conditions:

- (a) T1 Substantial Completion and T2 Substantial Completion shall have occurred;
- (b) the P1 Administrative Agent shall have received executed copies of the Pre-Completion Distribution Release Test Certificates for each of Train 1 and Train 2;
- (c) the Credit Agreement Projected DSCR for the four Fiscal Quarter period commencing on the projected Initial Principal Payment Date shall not be less than 1.40:1.00;
- (d) the Borrower shall have delivered to the P1 Administrative Agent a certificate confirming (i) that T3 Substantial Completion and the occurrence of the Term Conversion Date is reasonably expected to occur on or before the Date Certain and (ii) the sufficiency of funds to complete T3 Substantial Completion, in each case as confirmed by the Independent Engineer;
- (e) each Credit Agreement Designated Offtake Agreement is in full force and effect;
- (f) the “Date of First Commercial Delivery” under and as defined in each of the Initial Offtake Agreements referred to in clauses (b), (c), (d), (f) and (h) of the definition thereof, has occurred; and
- (g) no actual LNG Sales Mandatory Prepayment Event or Unmatured LNG Sales Mandatory Prepayment Event has occurred and is continuing as of the date of the proposed Distribution.

“CD Senior Loan DSRA” has the meaning assigned to such term in the P1 Accounts Agreement.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9604, et seq.), as amended, and rules and regulations issued thereunder.

“CFCo Deed of Trust” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Change in Law” means (a) the adoption or introduction of any law, rule, directive, guideline, decision or regulation after the Closing Date, (b) any change in law, rule, directive, guideline, decision or regulation or in the interpretation or application thereof by any Government Authority charged with its interpretation or administration after the Closing Date, or (c) compliance by any Senior Lender, by any lending office of such Senior Lender, or by such Senior Lender’s holding company, if any, with any written request, guideline, decision or directive (whether or not having the force of law but if not having the force of law, then being one with which the relevant party would customarily comply) of any Government Authority

charged with its interpretation or administration made or issued after the Closing Date provided, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law" regardless of the date enacted, adopted, issued or implemented.

"Change of Control" means:

- (a) prior to the Term Conversion Date, the Sponsor and the Approved Owners collectively fail to directly or indirectly hold legally and beneficially more than 50% of the total voting and economic Equity Interests of the Borrower and voting Equity Interests of the Pledgor;
- (b) prior to the Term Conversion Date, the Sponsor fails to directly or indirectly hold legally and beneficially 15 % or more of the voting and economic Equity Interests of the Borrower;
- (c) on and after the Term Conversion Date, the Sponsor, any Approved Owners, any Qualified Public Company, any Qualified Investment Entity, any Qualified Offtaker Investor, and any Qualified Energy Company collectively fail to directly or indirectly hold legally and beneficially more than 50% of the total voting and economic Equity Interests of the Borrower; or
- (d) at any time, the Pledgor fails to hold legally and beneficially 100% of the total voting and economic Equity Interests in the Borrower;

provided, that in clauses (a), (b), and (c), any Equity Interests of the Pledgor that are held legally and beneficially through an entity of which the Sponsor, any Approved Owners, any Qualified Investment Entity, any Qualified Offtaker Investor, or any Qualified Energy Company, as applicable, is the general partner and has the power, whether by contract, equity ownership, or otherwise, to direct or cause the direction of the policies and management of such entity, shall be included when calculating such percentage; provided, further, that for purposes of clauses (a) and (c) and the definition of Approved Owners, (x) "Global Infrastructure Management, LLC" means Global Infrastructure Management, LLC, and to the extent satisfying the Senior Lenders' KYC Requirements, its Related Entities and its Affiliates, where (i) "Affiliates" means (A) any Person that is managed or advised by Global Infrastructure Management, LLC or its Related Entities or (B) any trustee, custodian, or nominee of any fund managed or advised by Global Infrastructure Management, LLC or its Related Entities and (ii) "advised" means being in receipt of an implementing advice in relation to the management of investments of that Person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant Person, (y) "Devonshire Investment Pte. Ltd." means Devonshire Investment Pte. Ltd., its Related Entities and its Affiliates, where "Affiliates" means any Person that is, or is managed or advised by, GIC Private Limited or its Related Entities and (z) "MIC TI Holding Company 2 RSC Limited" means MIC TI Holding Company 2 RSC Limited, its Related Entities and its Affiliates, where "Affiliates" means the government of the Emirate of Abu Dhabi and any Person it Controls, whether directly or indirectly.

“Change Order” means, as the context may require, a “Change Order” as defined in the T1/T2 EPC Contract, a “Change Order” as defined in the T3 EPC Contract, or both.

“Class” means, when used in reference to any Senior Loan or borrowing of Senior Loans, refers to whether such Senior Loan or the Senior Loans constituting such borrowing, are Construction/Term Loans or Revolving Loans and, when used in reference to any Senior Lender, refers to whether such Senior Lender has any Construction/Term Loan Commitment, Revolving Loan Commitment, or Revolving LC Exposure.

“Closing Date” means the date on which the conditions precedent in Section 7.1 have been satisfied or waived in accordance with this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral Proceeds” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Commitment Fees” means the fees set forth in Section 4.13(a) and Section 4.13(b).

“Commitment Letter” means the Commitment Letter, dated as of June 23, 2023, among the Borrower, the Senior Lenders, the Coordinating Lead Arrangers and Joint Bookrunners, and the Joint Lead Arrangers, **as supplemented by the Joinder dated as of October 18, 2023, by National Westminster Bank Plc and agreed to by the Borrower.**

“Common Deed of Trust” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Common Facilities Sublease” has the meaning assigned to such term in the Definitions Agreement.

“Common Terms Agreement” means that certain Common Terms Agreement, dated as of July 12, 2023, by and among the Borrower, each Senior Secured Debt Holder Representative that is a party thereto, and the P1 Intercreditor Agent.

“Common Title Company” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Common Title Policy” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Common Trust Property” means the “Trust Property” as defined in the Common Deed of Trust.

“Communications” has the meaning assigned to such term in Section 14.11(g).

“Conforming Changes” means, with respect to either the use or administration of Daily Compounded SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), **the** timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment,

conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 5.5 and other technical, administrative or operational matters) that the P1 Administrative Agent decides (after consultation with the Borrower) may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the P1 Administrative Agent in a manner substantially consistent with market practice (or, if the P1 Administrative Agent decides (after consultation with the Borrower) that adoption of any portion of such market practice is not administratively feasible or if the P1 Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the P1 Administrative Agent decides (after consultation with the Borrower) is reasonably necessary in connection with the administration of this Agreement and the other P1 Financing Documents).

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consent" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Consent Agreement" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Construction Budget and Schedule" means (a) a budget attached as Exhibit O-1 setting forth, on a monthly basis, the timing and amount of all projected payments of P1 Project Costs through the date on which T1 Substantial Completion, T2 Substantial Completion, and T3 Substantial Completion shall have occurred and (b) a schedule attached as Exhibit O-2 setting forth the proposed engineering, procurement, construction and testing milestone schedule for the Project's Development through the projected date on which Final Completion shall have occurred under each of the P1 EPC Contracts, which budget and schedule shall (i) be certified by the Borrower as the best reasonable estimate of the information set forth therein as of the Closing Date, (ii) be consistent with the requirements of the Credit Agreement Transaction Documents, and (iii) as of the Closing Date, be in form and substance acceptable to the Senior Lenders in consultation with the Independent Engineer, in each case as may be amended, supplemented or otherwise modified to take into account any Change Orders permitted under Section 9.13(d).

"Construction/Term Lenders" means those Senior Lenders that have a Construction/Term Loan Commitment.

"Construction/Term Loan" means each loan made pursuant to Section 2.1(a), Section 2.2, and Section 2.10.

"Construction/Term Loan Availability Period" means the period commencing on the Closing Date and ending on the earliest to occur of (a) the Term Conversion Date, (b) the Date Certain, and (c) the date the Construction/Term Loan Commitments are terminated upon the occurrence and during the continuance of an Event of Default.

"Construction/Term Loan Borrowing" means each disbursement of Construction/Term Loans by the Construction/Term Lenders (or the P1 Administrative Agent on their behalf) on any single date to the Borrower in accordance with Section 2.3 and Section 2.10.

"Construction/Term Loan Borrowing Notice" means each request for Construction/Term Loan Borrowing of Construction/Term Loans substantially in the form of Exhibit D-1 and delivered in accordance with Section 2.2.

“Construction/Term Loan Commitment” means, with respect to each Senior Lender, the commitment of such Senior Lender to make Construction/Term Loans, as set forth opposite the name of such Senior Lender in the column entitled “Construction/Term Loan Commitment” in Schedule 2, or if such Senior Lender has entered into one or more Lender Assignment Agreements, set forth opposite the name of such Senior Lender in the Register maintained by the P1 Administrative Agent pursuant to Section 2.10(d) as such Senior Lender’s Construction/Term Loan Commitment, as the same may be reduced in accordance with Section 2.4.

“Construction/Term Loan Commitment Percentage” means, as to any Construction/Term Lender at any time, the percentage that such Construction/Term Lender’s Construction/Term Loan Commitment then constitutes of the Aggregate Construction/Term Loan Commitment.

“Construction/Term Loan Extension Request” has the meaning assigned to such term in Section 2.11(a).

“Construction/Term Loan Notes” means the promissory notes of the Borrower, substantially in the form of Exhibit A evidencing Construction/Term Loans, in each case duly executed and delivered by an Authorized Officer of the Borrower in favor of each Construction/Term Lender, including any promissory notes issued by the Borrower in connection with assignments of any Construction/Term Loan of the Construction/Term Lenders, as they may be amended, restated, supplemented or otherwise modified from time to time.

“Construction/Term Loan Tranche A Commitment” means, with respect to each Senior Lender, the commitment of such Senior Lender to make Construction/Term Loans constituting Tranche A, as set forth opposite the name of such Senior Lender in the column entitled “Construction/Term Loan Tranche A Commitment” in Schedule 2, or if such Senior Lender has entered into one or more Lender Assignment Agreements, set forth opposite the name of such Senior Lender in the Register maintained by the P1 Administrative Agent pursuant to Section 2.10(d) as such Senior Lender’s Construction/Term Loan Tranche A Commitment, as the same may be reduced in accordance with Section 2.4.

“Construction/Term Loan Tranche A Percentage” means, as to any Construction/Term Lender at any time, the percentage that such Construction/Term Lender’s Construction/Term Loan Tranche A Commitment then constitutes of the Aggregate Construction/Term Loan Tranche A Commitment.

“Construction/Term Loan Tranche Percentage” means, as to any Construction/Term Lender and any Tranche at any time, the percentage that such Construction/Term Lender’s Construction/Term Loan Commitment in respect of such Tranche then constitutes of the Aggregate Construction/Term Loan Tranche Commitment in respect of such Tranche.

“Contest” or **“Contested”** means, with respect to any Person, with respect to any Taxes or any Lien imposed on Property of such Person (or the related underlying claim for labor, material, supplies or services) by any Government Authority for Taxes or with respect to obligations under ERISA or any mechanics’ lien (each, a **“Subject Claim”**), a contest of the amount, validity or application, in whole or in part, of such Subject Claim pursued in good faith and by appropriate legal, administrative or other proceedings diligently conducted so long as appropriate reserves have been established with respect to any such Subject Claim in accordance with GAAP.

“Contingency” means the Dollar amount identified as “Contingency” in the Construction Budget and Schedule to be used to fund payment of P1 Project Costs reasonably and necessarily

incurred by the Borrower that are not line items, or are in excess of the line item amounts (except as contingency line items), in the Construction Budget and Schedule.

“Contracted Projected CFADS” means, for any period, an amount equal to (a) the amount of Cash Flow from Contracted Revenues projected to be received by the Borrower during such period *minus* (b) all amounts projected to be paid by the Borrower during such period pursuant to Sections 3.2(c)(i) and 3.2(c)(ii) (*P1 Revenue Account*) of the P1 Accounts Agreement **(other than any non-recurring fee projected to be payable to any Senior Secured Party)** which amounts under this clause (b) shall exclude any such amounts that (i) are related to the lifting of LNG, (ii) are P1 Project Costs, EPC CAPEX (as defined in the Definitions Agreement), or RCI Owners’ Costs (as defined in the Definitions Agreement), in each case, to the extent funded with Indebtedness or equity.

“Contracted Revenues” means, for any period, Cash Flow projected to be received by the Borrower during such period under ~~Qualified Credit Agreement Designated~~ Offtake Agreements then in effect, calculated solely to reflect the price paid if no LNG is lifted under ~~Qualified Credit Agreement Designated~~ Offtake Agreements then in effect.

“Controlled Subsidiary” means, with respect to any specified Person, a corporation, partnership, joint venture, limited liability company or other Person of which a majority of the Equity Interests of such Person having ordinary voting power or authority for the election or appointment of directors, managers or other governing body (other than Equity Interests having such power or authority only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise Controlled, directly or indirectly through one or more intermediaries, or both, by such specified Person.

“Coordinating Lead Arranger” means The Bank of Nova Scotia, Houston Branch, not in its individual capacity, but as a coordinating lead arranger hereunder.

“Coordinating Lead Arrangers and Joint Bookrunners” means Abu Dhabi Commercial Bank PJSC, Banco Santander S.A., New York Branch, Bank of China, New York Branch, HSBC Bank USA, N.A., Intesa Sanpaolo S.P.A., New York Branch, JPMorgan Chase Bank, N.A., Mizuho Bank, Ltd., MUFG Bank, Ltd., **National Westminster Bank Plc**, Royal Bank of Canada, and Standard Chartered Bank, in each case, not in its individual capacity, but as coordinating lead arranger and joint bookrunner hereunder and any successors and permitted assigns.

“Coordinator Affiliate” has the meaning assigned to such term in the Definitions Agreement.

“Credit Agreement Advance” means each Construction/Term Loan Borrowing and each Revolving Loan Borrowing.

“Credit Agreement Debt Service Reserve Amount” means as of any date on and after the Term Conversion Date, an amount reasonably projected by the Borrower to be the amount necessary to pay the forecasted Debt Service in respect of the Senior Loans hereunder from such date through (and including) the next two Quarterly Payment Dates taking into account, with respect to interest, the amount of interest that would accrue on the aggregate principal amount of the Senior Loans for the next six months; provided, that for purposes of calculation of the amount specified in clause (c) of the definition of Debt Service, any final balloon payment or bullet maturity of Senior Secured Debt shall not be taken into account and instead only the equivalent of the principal payment on the immediately preceding Quarterly Payment Date prior to such balloon payment or bullet maturity shall be taken into account.

“Credit Agreement Designated Offtake Agreement” means, as of any date of determination, each Qualified Offtake Agreement designated by the Borrower pursuant to Section 8.5(a).

“Credit Agreement Discharge Date” means the date on which:

- (a) the P1 Collateral Agent, the P1 Administrative Agent, the Revolving LC Issuing Bank, and the Senior Lenders shall have received payment in full in cash of all of the Obligations and all other amounts owing to the P1 Collateral Agent, the P1 Administrative Agent, the Revolving LC Issuing Bank, and the Senior Lenders under the P1 Financing Documents (other than Obligations thereunder that by their terms survive and with respect to which no claim has been made by the applicable Credit Agreement Senior Secured Parties);
- (b) the Senior Loan Commitments shall have terminated, expired or been reduced to zero Dollars; and
- (c) each Revolving LC shall have been terminated or cancelled and returned to the Revolving LC Issuing Bank.

“Credit Agreement Event of Abandonment” means any of the following shall have occurred:

- (a) the abandonment, suspension, or cessation of all or a material portion of the activities related to the Development for a period in excess of sixty consecutive days (other than as a result of force majeure so long as the Borrower is diligently attempting to restart the Development); provided, that if any such abandonment, suspension, or cessation is not accompanied by a formal, public announcement by the Borrower of its intentions as set forth in clause (b) below, such abandonment, suspension, or cessation shall be deemed not to have occurred unless, within 45 days following notice to the Borrower from the P1 Intercreditor Agent requesting the Borrower to deliver a certificate to the effect that it will resume construction or operation as soon as is commercially reasonable, the Borrower has not delivered such certificate or resumed such activities or, if such certificate is delivered, the Borrower has nevertheless not resumed such activities within ninety days following receipt of the notice from the P1 Intercreditor Agent;
- (b) a formal, public announcement by the Borrower of a decision to abandon or indefinitely defer or suspend the Development for any reason;
- (c) any Train Abandonment by the Borrower; or
- (d) the Borrower shall make any filing with FERC giving notice of the intent or requesting authority to abandon the Rio Grande Facility for any reason.

“Credit Agreement Indemnitee” has the meaning assigned to such term in Section 14.8(a).

“Credit Agreement Information” has the meaning assigned to such term in Section 14.17.

“Credit Agreement Maturity Date” means the date that is the seventh anniversary of the Closing Date.

“Credit Agreement Permitted Indebtedness” means:

- (a) Senior Secured Debt and all other Senior Secured Obligations, including all Indebtedness under Senior Secured Hedge Agreements;
- (b) Indebtedness expressly contemplated by a Material Project Document;
- (c) purchase money Indebtedness or Capital Lease Obligations to the extent incurred in the ordinary course of business to finance the acquisition or licensing of intellectual property or items of equipment; provided, that (i) if such obligations are secured, they are secured only by Liens upon the equipment or intellectual property being financed and (ii) the aggregate principal amount and the capitalized portion of such obligations do not at any time exceed \$100,000,000 in the aggregate;
- (d) Permitted Subordinated Debt;
- (e) trade or other similar Indebtedness incurred in the ordinary course of business, which is (i) not more than ninety days past due or (ii) being contested in good faith and by appropriate proceedings;
- (f) contingent liabilities incurred in the ordinary course of business, including the acquisition or sale of goods, services, supplies or merchandise in the ordinary course of business, the endorsement of negotiable instruments received in the ordinary course of business and indemnities provided under any of the Credit Agreement Transaction Documents;
- (g) any obligations of the Borrower under any Other Permitted Hedges;
- (h) to the extent constituting Indebtedness, indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course or other cash management services in the ordinary course of business;
- (i) to the extent constituting Indebtedness, obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, indemnification obligations, obligations to pay insurance premiums, take-or-pay obligations contained in supply or transportation agreements and similar obligations incurred in the ordinary course of business;
- (j) Indebtedness in respect of any bankers' acceptance, letter of credit, warehouse receipt or similar facilities entered into in the ordinary course of business;
- (k) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts;
- (l) Indebtedness in respect of an obligation to pay future insurance premiums on insurance policies required by the Insurance Program (i) within three years of the incurrence of such Indebtedness or (ii) otherwise in customary amounts consistent with the operations and business of the Rio Grande Facility in the ordinary course of business;
- (m) unsecured Indebtedness in an aggregate amount not to exceed \$100,000,000 to finance Permitted Capital Improvements;

- (n) Indebtedness in an aggregate principal amount not to exceed \$250,000,000 to finance the Restoration of the Project following an Event of Loss or an Event of Taking; and
- (o) other unsecured Indebtedness in aggregate principal amount not to exceed \$100,000,000.

“Credit Agreement Projected DSCR” means, for the applicable period, the ratio of (a) Contracted Projected CFADS to (b) Debt Service (other than (i) ~~the~~ principal of the Revolving Loans and ~~the other~~ Working Capital Debt and the principal amount of the Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees and up-front fees paid prior to the end of the Construction/Term Loan Availability Period or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under Senior Secured IR Hedge Agreements, in each case, projected to be paid prior to the end of the Construction/Term Loan Availability Period, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, (vi) without duplication of amounts in clause (iv), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements, and (vii) for purposes of satisfying the conditions set forth in Section 9.4(c)(i)(B) and incremental carrying costs of such Senior Secured Debt and the costs associated with arranging, issuing, and incurring the applicable Replacement Debt) projected for such period}.

“Credit Agreement Senior Secured Parties” means the Senior Lenders, the Revolving LC Issuing Bank, the P1 Administrative Agent, the P1 Collateral Agent, and each of their respective successors and permitted assigns, in each case in connection with this Agreement, the Revolving LCs and the Senior Loans.

“Credit Agreement Supplemental Quantities” means, at any time, the positive difference between (a) the Borrower’s share of the Rio Grande Facility’s annual LNG production and (b) the ~~Base Committed Quantity~~ **aggregate ACQ under the then-existing Credit Agreement Designated Offtake Agreements**.

“Credit Agreement Transaction Documents” means, collectively, the P1 Financing Documents (as defined in this Agreement) and the Material Project Documents.

“Daily Compounded SOFR” means, for any day (a **“SOFR Rate Day”**), a rate per annum equal to the greater of (a) SOFR for the day (such day, a **“SOFR Determination Day”**) that is five U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website, and (b) the Floor. If by 5:00 p.m. (New York City time) on the second U.S. Government Securities Business Day immediately following any SOFR Determination Day, SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator’s Website and a Benchmark Replacement Date with respect to the Daily Compounded SOFR has not occurred, then SOFR for such SOFR Determination Day will be SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator’s Website; provided that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Compounded SOFR for no more than three consecutive SOFR Rate Days. Any change in Daily Compounded SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

"Date Certain" means February 7, 2030; provided, that (a) in case one or more force majeure events interferes with construction of the P1 Train Facilities or P1 Common Facilities or otherwise with the Borrower's ability to achieve Substantial Completion of the P1 Train Facilities and the P1 Common Facilities by such date, then the Date Certain will be extended by such number of days as such event or events of force majeure delays Substantial Completion of the P1 Train Facilities and the P1 Common Facilities (not exceeding 365 days) and (b) if, on or prior to February 7, 2030, the Borrower certifies to the P1 Administrative Agent (and the Independent Engineer reasonably concurs with such certification in writing) that (i) the only remaining condition to the Term Conversion Date as of the date of delivery of such certification, other than conditions that can only be satisfied on the Term Conversion Date, is completion of the Lenders' Reliability Test and the delivery of the LRT Certificates and (ii) the Lenders' Reliability Test has commenced in accordance with the procedures specified in this Agreement and is reasonably expected to be completed on or prior to May 7, 2030, then the "Date Certain" means May 7, 2030.

"Debt Fund Affiliate" means any ~~other~~ Affiliate of the ~~Pledgor~~ any Equity Owner other than the Pledgor, the Borrower, or any RG Facility Entity that is, in each case, a *bona fide* debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course, is not organized for the purpose of making equity investments, and with respect to which (a) any such Debt Fund Affiliate has in place customary information barriers between it and the applicable Equity Owner and any Affiliate of the applicable Equity Owner that is not primarily engaged in the investing activities described above, (b) its managers have fiduciary duties to the investors thereof independent of and in addition to their duties to the applicable Equity Owner and any Affiliate of the applicable Equity Owner, and (c) the Equity Owners and investment vehicles managed or advised by any Equity Owner that are not engaged primarily in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course do not, either directly or indirectly, make investment decisions for such entity.

"Debtor Relief Laws" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Debtor Relief Plan" means a plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws.

"Declined Replacement Debt Commitments" has the meaning assigned to such term in Section 2.4(c).

"Declined Replacement Debt Proceeds" has the meaning assigned to such term in Section 4.10(f).

"Default" means an event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would become an Event of Default.

"Default Rate" means an interest rate (before as well as after judgment) equal to (a) with respect to overdue principal, the applicable interest rate *plus 2.00% per annum* and (b) with respect to any other overdue amount (including overdue interest), the interest rate applicable to Base Rate Loans ~~in the case of overdue interest or fee~~ *plus 2.00% per annum*.

"Defaulting Lender" means a Senior Lender which (a) has defaulted in its obligations (i) to fund (A) any Construction/Term Loan or otherwise failed to comply with its obligations under Section 2.1, (B) any Revolving Loan (other than any Revolving LC Loan) or otherwise failed to comply with its obligations under Section 2.6, or (C) any Revolving LC Loan or otherwise failed to comply with its obligations under Section 3.2, unless (x) such default or failure is no longer continuing or has been cured within two Business Days after such default or failure or (y) other than in the case of clause (C) above, such Senior Lender notifies the P1 Administrative Agent and the Borrower in writing that such failure is the result of such Senior Lender's determination that one or more conditions precedent to funding **in accordance with this Agreement** (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) to pay to the P1 Administrative Agent, the Revolving LC Issuing Bank, or any other Senior Lender any other amount required to be paid by it hereunder (including in respect of its participation in Revolving LCs) within two Business Days of the date when due, (b) has notified the Borrower, the P1 Administrative Agent and/or the Revolving LC Issuing Bank that it does not intend to comply with its obligations under Section 2.1, Section 2.6, or Section 3.2 or has made a public statement to that effect (unless such writing or public statement relates to such Senior Lender's obligation to fund a Senior Loan hereunder and states that such position is based on such Senior Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied **in accordance with this Agreement**), (c) has failed, within three Business Days after written request by the P1 Administrative Agent, the Borrower, or, to the extent the Revolving LC Issuing Bank has outstanding Senior Secured Obligations at such time, the Revolving LC Issuing Bank, to confirm in writing to the P1 Administrative Agent, the Revolving LC Issuing Bank and the Borrower that it will comply with its prospective funding obligations hereunder (provided, that such Senior Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the P1 Administrative Agent, the Revolving LC Issuing Bank and the Borrower), (d) has, or has a direct or indirect parent company that has (i) become the subject of a proceeding under any Bankruptcy Code or any applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state, federal or national regulatory authority acting in such a capacity, or (e) has become the subject of a Bail-In Action; provided, that for the avoidance of doubt, a Senior Lender shall not be a Defaulting Lender solely by virtue of (i) the ownership or acquisition of any Equity Interest in that Senior Lender or any direct or indirect parent company thereof by a Government Authority or (ii) in the case of a Solvent Person, the precautionary appointment of an administrator, guardian, custodian or other similar official by a Government Authority under or based on the law of the country where such Person is subject to home jurisdiction supervision if Government Rule requires that such appointment not be publicly disclosed, in any case, where such action does not result in or provide such Senior Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Senior Lender (or such Government Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Senior Lender. Any determination by the P1 Administrative Agent that a Senior Lender is a Defaulting Lender under any one or more of the clauses above shall be conclusive and binding absent manifest error, and such Senior Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to the Borrower and each Senior Lender.

"Delay Liquidated Damages" has the meaning assigned to such term in the P1 Accounts Agreement.

"Delegate" has the meaning assigned to such term in the Definitions Agreement.

"Delivered" refers to quantities of LNG sold "cost, insurance and freight," "cost and freight", "delivered ex ship", "delivered at terminal", or otherwise where the Borrower is responsible for the transportation of LNG to a delivery point other than at the Rio Grande Facility under the terms of the relevant Offtake Agreement.

"Direct Operating Costs" has the meaning assigned to such term in the Definitions Agreement.

"Disbursement Endorsement" means endorsement(s) to the Common Title Policy (dated to the earliest search-through date of all P1 Mortgaged Property covered by such Disbursement Endorsement) in form reasonably acceptable to the P1 Administrative Agent (a) indicating that since the effective date of the Common Title Policy (or the date of the last preceding endorsement(s) to the Common Title Policy, if later), there has been no change in the state of the title to the applicable P1 Mortgaged Property (other than matters constituting Permitted Liens or matters otherwise approved by (i) the P1 Collateral Agent (acting on the instructions of the P1 Intercreditor Agent) or (ii) prior to the SSD Discharge Date under this Agreement, the P1 Administrative Agent), (b) stating the amount of coverage then existing under the Common Title Policy, and (c) updating the date of the Common Title Policy and endorsements to the extent permitted by Texas regulations.

"Disqualified Institution" means (a) any Person set forth by the Borrower on Schedule 14.4(j) as of the Closing Date, as updated from time to time by the Borrower by three Business Days' prior written notice to the P1 Administrative Agent to add any competitor of any Loan Party, Global Infrastructure Management, LLC, TotalEnergies SE, and their respective subsidiaries, and such competitor's Affiliates or (b) any clearly identifiable (solely on the basis of its name or as identified by the Borrower to the P1 Administrative Agent) Affiliate of the entities described in clause (a); provided, that "Disqualified Institution" shall not include in each case a Disqualified Institution Debt Fund Affiliate of any entity not listed under the heading "Group A" in Schedule 14.4(j) hereto; provided, further, that the Borrower shall not add more than two additional entity names per calendar year to "Group A" under Schedule 14.4(j) following the Closing Date; provided, further, that any designation as a "Disqualified Institution" shall not apply retroactively to any then current Senior Lenders or any entity that has acquired an assignment or participation interest in any Construction/Term Loans or Revolving Loans in accordance with and under this Agreement.

"Disqualified Institution Debt Fund Affiliate" means a bona fide debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course, is not organized for the purpose of making equity investments, and with respect to which (a) any such Disqualified Institution Debt Fund Affiliate has in place customary information barriers between it and the applicable Disqualified Institution and any Affiliate of the applicable Disqualified Institution that is not primarily engaged in the investing activities described above, (b) its managers have fiduciary duties to the investors thereof independent of and in addition to their duties to the applicable Disqualified Institution and any Affiliate of the applicable Disqualified Institution, and (c) the Disqualified Institution and investment vehicles managed or advised by such Disqualified Institution that are not engaged primarily in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course do not, either directly or indirectly, make investment decisions for such entity.

"Distribution Guaranty" means an unconditional guarantee, in form and substance satisfactory to the P1 Administrative Agent, for the benefit of the P1 Collateral Agent on behalf of the Senior

Lenders and the TCF Senior Lenders provided by an Acceptable Distribution Guarantor without recourse to any Loan Party in connection with Section 9.10(a)(ii).

"Distribution LC" an irrevocable, standby letter of credit issued by a Qualifying LC Issuer in connection with Section 9.10(a)(ii) that (a) includes an expiration date no earlier than 364 days following its issuance date, (b) allows the P1 Collateral Agent to make a drawdown of up to the full stated amount in the circumstances permitted under Section 4.10(j), (c) is for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders and the TCF Senior Lenders, and (d) is in form and substance reasonably satisfactory to the P1 Administrative Agent.

"Documentation Agents" means HSBC Bank USA, N.A. and Mizuho Bank, Ltd., in each case, not in its individual capacity, but as a documentation agent hereunder.

"DOE Export Authorization" means (a) the Order Granting Long-Term Multi-Contract Authorization to Export LNG to Free Trade Agreement Nations issued by DOE/FE in FE Docket No. 15-190-LNG in its Order No. 3869 on August 17, 2016, and (b) the Opinion and Order Granting Long-Term Multi-Contract Authorization to Export LNG to Non-Free Trade Agreement Nations issued by DOE/FE in FE Docket No. 15-190-LNG in its Order No. 4492 on February 10, 2020, as amended to extend the term in DOE/FE Order No. 4492-A issued on October 21, 2020.

"DOE/FE" means the U.S. Department of Energy, Office of Fossil Energy or, as subsequently renamed, Office of Fossil Energy and Carbon Management.

"DQ List" has the meaning assigned to such term in Section 14.4(j)(iv).

"DSRA Reserve Amount" has the meaning assigned to such term in the P1 Accounts Agreement.

"Easements" means the easements, partial easements, subeasements, leasehold easements, licenses, rights-of-way, additional line agreements, land-use and water crossing licenses, servitudes or permits and other authorizations necessary for the Development of the Project.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country that is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country that is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country that is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) any Senior Lender, (b) an Affiliate of any Senior Lender, (c) any Investment Grade Approved Fund, and (d) any other Person (other than a natural person) approved by the P1 Administrative Agent and with respect to any Revolving Lender, the Revolving LC Issuing Bank (in each case, such approval by the P1 Administrative Agent and the Revolving LC Issuing Bank, not to be unreasonably withheld, conditioned or delayed and no

such approval shall be required for any assignment pursuant to Section 14.4(f) and, unless an Event of Default shall then be continuing, with the consent of the Borrower (not to be unreasonably withheld, conditioned or delayed); provided, that the Borrower shall be deemed to have consented unless it shall object thereto by written notice to the P1 Administrative Agent within five Business Days after having received notice of the proposed assignment; provided, further, that, notwithstanding the foregoing, Eligible Assignee shall not include (x) any Defaulting Lender, Loan Party, or any Affiliate or Controlled Subsidiary of any of the foregoing, except any Affiliated Lender or **any Debt Fund Affiliate that is an Investment Grade Approved Fund or** (y) any Disqualified Institution.

“Environmental and Social Action Plan” means the Environmental and Social Action Plan attached to the report of the Environmental Advisor delivered pursuant to Section 7.1(f)(vi), together with any updates thereto as may be made from time to time by the Borrower as required or permitted under the P1 Financing Documents.

“Environmental and Social Incident” means a significant and serious incident or accident as a result of the construction or operation of the Project that (a) under the Environmental Laws requires the Borrower to undertake emergency or immediate remedial action and (b) has the following impacts: (i) death, major health disability or material adverse health damage, (ii) material adverse and persistent damage to the environment, or (iii) material destruction of a site or object of cultural or religious significance.

“Equator Principles” means the principles named “The Equator Principles EP4 – A financial industry benchmark for determining, assessing and managing environmental and social risk in projects” adopted by various financial institutions in the form dated July 2020 that became effective on October 1, 2020.

“Equity Credit Support” has the meaning assigned to such term in the P1 Equity Contribution Agreement.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any corporation or trade or business which is a member of any group of organizations: (a) described in Section 414(b) or Section 414(c) of the Code of which the Borrower is a member and (b) solely for purposes of potential liability under Section 302(b) of ERISA and Section 412(b) of the Code and the lien created under Section 303(k) of ERISA and Section 430(k) of the Code, described in Section 414(m) or Section 414(o) of the Code of which the Borrower is a member.

“ERISA Event” means:

- (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan, other than events for which the 30-day notice period has been waived by current regulation under PBGC Regulation Subsections .27, .28, .29 or .31;
- (b) the failure with respect to any Plan to meet the minimum funding requirements of Section 412 or Section 430 of the Code or Section 302 or Section 303 of ERISA, whether or not waived;

- (c) the filing pursuant to Section 412(c) of the Code or Section 303 of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan;
- (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan;
- (e) the filing of notice of intent to terminate a Plan or the treatment of a Plan amendment as a termination under Section 4041 of ERISA;
- (f) the institution of proceedings to terminate a Plan by PBGC or to appoint a trustee to administer any Plan;
- (g) the withdrawal by the Borrower or any of its ERISA Affiliates from a multiple employer plan (within the meaning of Section 4064 of ERISA) during a plan year in which it was a "substantial employer", as such term is defined under Section 4064 of ERISA, upon the termination of a Multiemployer Plan or the cessation of operations under a Plan pursuant to Section 4062(e) of ERISA;
- (h) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Multiemployer Plan;
- (i) the attainment of any Plan of "at risk" status within the meaning of Section 430 of the Code or Section 303 of ERISA;
- (j) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in critical, endangered or critical and declining status, within the meaning of the Code or Title IV of ERISA;
- (k) the failure of the Borrower or any ERISA Affiliate to pay when due any amount that has become liable to the PBGC, any Plan or trust established thereunder pursuant to Title IV of ERISA or the Code;
- (l) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 436(f) of the Code;
- (m) the Borrower or any of its Controlled Subsidiaries engages in a "prohibited transaction" within the meaning of Section 4975 of the Code or Section 406 of ERISA that is not otherwise exempt by statute, regulation or administrative pronouncement; or
- (n) the imposition of a lien under ERISA or the Code with respect to any Plan or Multiemployer Plan.

"Erroneous Payment" has the meaning assigned to such term in Section 13.12(a).

"Erroneous Payment Deficiency Assignment" has the meaning assigned to such term in Section 13.12(d).

“Erroneous Payment Impacted Class” has the meaning assigned to such term in Section 13.12(d).

“Erroneous Payment Return Deficiency” has the meaning assigned to such term in Section 13.12(d).

“Erroneous Payment Subrogation Rights” has the meaning assigned to such term in Section 13.12(f).

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Event of Default” means any of the events described in Article 11 or in Article 7 (*Events of Default*) of the Common Terms Agreement.

“Excess Declined Replacement Debt Commitments” has the meaning assigned to such term in Section 2.4(c).

“Excess Declined Replacement Debt Proceeds” has the meaning assigned to such term in Section 4.10(f).

“Excluded Taxes” means, with respect to the P1 Administrative Agent, any Senior Lender or the Revolving LC Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower under any P1 Financing Document, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Person being organized under the laws of, or having its principal office or, in the case of a Senior Lender or the Revolving LC Issuing Bank, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Senior Lender or Revolving LC Issuing Bank, any U.S. federal withholding Tax that is imposed on amounts payable to or for the account of such Person with respect to an applicable interest in a P1 Financing Document pursuant to a law in effect on the date on which (i) such Person acquires such interest in the P1 Financing Document (other than pursuant to an assignment request by the Borrower under Section 5.4) or (ii) such Person changes its lending office, except in each case to the extent, pursuant to Section 5.6, amounts with respect to such Taxes were payable either to such Person's assignor immediately before such Person became a Party hereto or to such Person immediately before it changed its lending office, (c) Taxes attributable to such Person's failure to comply with Section 5.6(g) or Section 5.6(h), and (d) any withholding Tax imposed under FATCA.

“Executive Committee” has the meaning assigned to such term in the Definitions Agreement.

“Existing Construction/Term Loans” has the meaning assigned to such term in Section 2.11(a).

“Export Administrator” has the meaning assigned to such term in the Definitions Agreement.

“Export Authorization Remediation” has the meaning assigned to such term in Section 8.5(b)(ii)(A).

“Extended Construction/Term Loans” has the meaning assigned to such term in Section 2.11(a).

“Extending Construction/Term Lender” has the meaning assigned to such term in Section 2.11(b).

“Extension Amendment” has the meaning assigned to such term in Section 2.11(c).

“Extension Election” has the meaning assigned to such term in Section 2.11(b).

“Facility Committee” has the meaning assigned to such term in the Definitions Agreement.

“Facility Independent Engineer” has the meaning assigned to such term in the Definitions Agreement.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Government Authorities and implementing such Sections of the Code.

“FATCA Deduction” means a deduction or withholding from a payment under a P1 Financing Document required by FATCA.

“FATCA Exempt Party” means a Party that is entitled to receive payments free from any FATCA Deduction.

“Federal Funds Effective Rate” means, for any day, the greater of (a) the rate calculated by the Federal Reserve Bank of New York based on such day's Federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the Federal funds effective rate and (b) 0%.

“Fees” means, collectively, each of the fees payable by the Borrower for the account of any Senior Lender, Revolving LC Issuing Bank or the P1 Administrative Agent pursuant to Section 4.13.

“FERC Authorization” means the authorization to site, construct, and operate the P1 Train Facilities and the Common Facilities originally issued by FERC in its Order in Docket Nos. CP16-454 on November 22, 2019, with rehearing subsequently denied and later remanded by the Court of Appeals for the D.C. Circuit, and with those certain design modifications approved by FERC in 2020 and 2021, and the FERC Remand Order, as such FERC orders may be amended, supplemented, clarified, restated, reissued, or otherwise modified from time to time by FERC.

“FERC Remand Order” means the order issued by FERC, following the remand by the U.S. Court of Appeals for the D.C. Circuit of the prior FERC Authorization, in Docket Nos. CP16-454 on April 21, 2023.

“Final Completion” means, as the context may require, a “Final Completion” as defined in the T1/T2 EPC Contract, a “Final Completion” as defined in the T3 EPC Contract, or both.

“Flood Certificate” has the meaning assigned to such term in Section 8.17(d)(i).

"Flood Program" has the meaning assigned to such term in Section 8.17(a)(iv)(A).

"Floor" means a rate of interest equal to 0%.

~~**"Force Majeure"** unless otherwise defined herein, has the meaning assigned to such term in the Qualified Offtake Agreements.~~

"Foreign Lender" means any Senior Lender or Revolving LC Issuing Bank that is not a U.S. Person.

"Funding Shortfall Debt" means Supplemental Debt that satisfies:

- (a) the conditions set forth in Section 2.6 (~~Supplemental Debt~~) of the Common Terms Agreement,
- (b) the conditions set forth in Section 9.4(f) (other than Section 9.4(f)(ii)), and
- (c) the following conditions:
 - (i) the principal amount of such Funding Shortfall Debt does not exceed: (A) (1) if incurred prior to the Term Conversion Date or the ~~completion date of the~~ **Capital Improvement Completion Date of a** Permitted Capital Improvement (as applicable), an amount equal to 75% of the aggregate amount of P1 Project Costs ~~or~~ costs of such Permitted Capital Improvement payable by the Borrower for which such Funding Shortfall Debt is incurred and (2) if incurred on or after the Term Conversion Date or ~~the completion date of the applicable Capital Improvement Completion Date~~ (as applicable), (x) in the case of Funding Shortfall Debt incurred to finance P1 Project Costs, an amount that, together with all funded or unfunded commitments under the Construction/Term Loans, any Replacement Debt incurred to replace such funded or unfunded commitments, and any other Funding Shortfall Debt to finance P1 Project Costs, does not exceed 75% of aggregate P1 Project Costs as at the Term Conversion Date or (y) in the case of Funding Shortfall Debt incurred to finance Permitted Capital Improvements, an amount that, together with all Funding Shortfall Debt to finance such Permitted Capital Improvement, does not exceed 75% of aggregate costs in respect of such Permitted Capital Improvement as at the completion of such Permitted Capital Improvement *plus* (B) all premiums, fees, costs, expenses, and reserves (including any incremental increase in the DSRA Reserve Amounts resulting from the incurrence of such Funding Shortfall Debt) associated with arranging, issuing and incurring such Funding Shortfall Debt *plus* (C) 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any portion of one or more Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;
 - (ii) such Funding Shortfall Debt is incurred prior to the second anniversary of the Term Conversion Date or ~~the completion date of such Permitted~~ **applicable** Capital Improvement **Completion Date** (as applicable); and

- (iii) simultaneously with the incurrence of any Funding Shortfall Debt, the Borrower shall use a portion of the proceeds of such Funding Shortfall Debt to fund any reserves (including any incremental increase in the DSR Reserve Amounts) resulting from the incurrence of such Funding Shortfall Debt.

"Global Coordinators" means Banco Santander S.A., New York Branch, Bank of China, New York Branch, Intesa Sanpaolo S.P.A., New York Branch, JPMorgan Chase Bank, N.A., Mizuho Bank, Ltd., MUFG Bank, Ltd., and Royal Bank of Canada, in each case, not in its individual capacity, but as global coordinator hereunder and any successors and permitted assigns.

"GURA" has the meaning assigned to such term in Section 6.16(d).

"Historical DSCR" means, as at the end of each Fiscal Quarter (subject to the proviso below), the ratio of (a) Historical CFADS for the preceding four Fiscal Quarter period to (b) the aggregate amount of Debt Service (other than (i) principal of the CD Revolving Loans and Working Capital Debt and the principal amount of any Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees, and up-front fees paid prior to the Project Completion Date or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under the Senior Secured IR Hedge Agreements, in each case, paid prior to the Project Completion Date, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, and (vi) without duplication of amounts in clause (v), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements) paid or payable during the preceding four Fiscal Quarter period; provided, that for any Historical DSCR calculation performed prior to the first anniversary of the Initial Principal Payment Date, the calculation will be based on the number of Fiscal Quarters elapsed since the Initial Principal Payment Date.

"HMT" means His Majesty's Treasury, the economic and finance ministry of the United Kingdom.

"IE Confirming Certificate" means, in respect of a Change Order or payment contemplated by Section 9.13(d), a certificate of the Independent Engineer confirming that after giving effect to such Change Order or payment, such Change Order or payment will not result in P1 Project Costs exceeding the funds then available to pay such P1 Project Costs or reasonably expected to be available to the Borrower at the time such P1 Project Costs become due and payable.

"Illegality Notice" has the meaning specified in Section 5.1.

"Indemnified Taxes" means (a) Taxes imposed on or with respect to any payment made on account of any obligation of the Borrower under any P1 Financing Document, other than Excluded Taxes and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Independent Engineer Advance Certificate" means a certificate of an Authorized Officer of the Independent Engineer delivered pursuant to Section 7.2(b) and if applicable pursuant to Section 7.3(c), substantially in the form of Exhibit J.

"Independent Engineer Term Conversion Certificate" means a certificate of an Authorized Officer of the Independent Engineer with respect to the Term Conversion Date substantially in the form of Exhibit L.

"Initial Offtakers" means:

- (a) China Gas Hongda Energy Trading Co., Ltd.;
- (b) Engie S.A.;
- (c) ENN LNG (Singapore) Pte. Ltd.;
- (d) ExxonMobil Asia Pacific Pte. Ltd.;
- (e) Galp Trading S.A.;
- (f) Guangdong Energy Group Natural Gas Co., Ltd.;
- (g) Guangdong Energy Group Co., Ltd.;
- (h) Itochu Corporation;
- (i) Shell NA LNG LLC; and
- (j) TotalEnergies Gas & Power North America, Inc.

"Insurance Advisor Closing Date Certificate" means a certificate of an Authorized Officer of the Insurance Advisor with respect to the Closing Date substantially in the form of Exhibit I.

"Insurance Advisor Term Conversion Certificate" means a certificate of an Authorized Officer of the Insurance Advisor with respect to the Term Conversion Date substantially in the form of Exhibit N.

"Interest Election Request" means a request by the Borrower to convert or continue a Senior Loan Borrowing in accordance with Section 4.5, which shall be in such form as the P1 Administrative Agent may reasonably approve.

"Interest Payment Date" has the meaning assigned to such term in Section 4.3(a).

"International LNG Tanker Standards" has the meaning assigned to such term in the Definitions Agreement.

"International LNG Terminal Standards" has the meaning assigned to such term in the Definitions Agreement.

"Investment Grade" means that such Person is either (a) rated by at least two Recognized Credit Rating Agencies and at least two such ratings are equal to or better than "Baa3" by Moody's, "BBB-" by S&P or Fitch, or comparable credit ratings by Recognized Credit Rating Agencies or (b) (x) rated by at least one Recognized Credit Rating Agencies Agency and at least one such rating is equal to or better than "Baa3" by Moody's, "BBB-" by S&P or Fitch, or a comparable credit rating by a Recognized Credit Rating Agency and (y) has a tangible net worth in excess of the lesser of (i) \$2,000,000,000 per MTPA of LNG committed to be purchased by such Person pursuant to its applicable Offtake Agreement and (ii) \$7,000,000,000.

"Involuntary Liens" means any non-consensual Lien on the Property of any Person, including:

- (a) Liens for Taxes, including any assessments or other governmental charges;

- (b) mechanic's or materialmen's Liens;
- (c) Lien on any Person's property or assets arising by operation of law;
- (d) defects, imperfections, easements, rights of way, restrictions, irregularities, encumbrances, and clouds of title with respect to any Property; and
- (e) Liens securing judgments for the payment of money.

"Joint Lead Arranger" means National Bank of Canada, not in its individual capacity, but as joint lead arranger hereunder and any successors and permitted assigns.

"KYC Requirements" means the consistently applied "know your customer" requirements of the Senior Lenders under applicable "know your customer" and Anti-Terrorism and Money Laundering Laws, including the Patriot Act.

"LandCo Site Lease" has the meaning assigned to such term in the Definitions Agreement.

"Latest Qualified Term" means, with respect to any group of Credit Agreement Designated Offtake Agreements, the Qualified Term of the Credit Agreement Designated Offtake Agreement with the latest occurring expiration date.

"LC Cash Collateral Account" means an interest bearing cash collateral account established upon the occurrence of an Event of Default by the P1 Administrative Agent in its name for the benefit of the Revolving LC Issuing Bank and the Senior Lenders, subject to the terms of this Agreement.

"Lender Assignment Agreement" means a Lender Assignment Agreement, substantially in the form of Exhibit F-1 or such other form as agreed by the applicable assignor and assignee, the Borrower and the P1 Administrative Agent.

"Lenders' Reliability Test" means the operational test described in Exhibit P-1, the completion of which is evidenced by delivery of the LRT Certificates.

"Lien Waiver" means the lien and claim waiver statements in the forms attached as (a) Schedules K-1 through K-4, as applicable, to each of the P1 EPC Contracts in connection with all interim Lien and claim waivers delivered by the P1 EPC Contractor or any P1 Major EPC Subcontractors or P1 Major EPC Sub-subcontractors under the P1 EPC Contracts and (b) Schedules K-5 through K-8, as applicable, to each of the P1 EPC Contracts in connection with all final Lien and claim waivers delivered by the P1 EPC Contractor or any P1 Major EPC Subcontractors or P1 Major EPC Sub-subcontractors under the P1 EPC Contracts.

"Liquefaction Owner" means (a) the Borrower and (b) any other Person that (i) is permitted under the CFAA to construct and own the assets comprising a Train Facility, (ii) has entered into a construction advisor services agreement in respect of a Subsequent Train Facility, and (iii) has acceded to the RG Facility Agreements in accordance therewith.

"LNG Sales Mandatory Prepayment" has the meaning assigned to such term in Section 8.5(b).

"LNG Sales Mandatory Prepayment Event" has the meaning assigned to such term in Section 8.5(b).

“Loan Parties” means the Borrower and the Pledgor.

“LRT Certificates” means, collectively, (i) the Physical Completion Certificates and Independent Engineer Physical Completion Certificate Acknowledgements to be delivered with respect to each Train Facility, (ii) the Operational Completion Certificate and Independent Engineer Operational Completion Certificate Acknowledgement, (iii) the Environmental and Social Completion Certificate, and (vi) the Environmental Consultant Environmental and Social Completion Certificate, in each case, substantially in the form attached hereto as Exhibit P-3.

“Major Capital Improvements” means Capital Improvements for which the Borrower’s allocated share of costs pursuant to the CFAA is reasonably expected to be equal to or greater than \$200,000,000.

“Major Decisions” means each of the following confirmations, consents or approvals, to the extent the Borrower has such confirmation, consent or approval rights pursuant to the RG Facility Agreements:

- (a) approve any matter provided for in Section 6.12 (*Decisions by the Owners*) of the CFAA;
- (b) approve any matter provided for in Section 6.2 (*Decisions by the Liquefaction Owners*) of the CFAA;
- (c) agree not to Restore all or any portion of any Common Facilities affected by an Event of Loss pursuant to Section 22.2.1 (*Events of Loss Affecting Common Facilities; Restoration Plans*) of the CFAA;
- (d) confirm its (i) election to defer its election to proceed or not proceed with the Restoration of any Train Facility or (ii) election to proceed with Train Abandonment of any Train Facility, in each case, pursuant to Section 22.3.1 (*Events of Loss Affecting Train Facilities*) of the CFAA;
- (e) approve any Transfer (as defined in the Definitions Agreement) under Section 25.2 (*Permitted Transfers*) of the CFAA;
- (f) approve the selection of any P1 Major EPC Subcontractor or the Operator’s execution of any Major Subcontract; and
- (g) approve the initial start-up procedures for major Liquefaction Project (as defined in the Definitions Agreement) systems related to the **P1** Train Facilities or the **P1** Common Facilities pursuant to Section 3.4(g)(iv) (*Testing and Start-Up*) of the P1 CASA.

“Major Subcontract” has the meaning assigned to such term in the Definitions Agreement.

“Majority Affected Lenders” means with respect to a proposed amendment, waiver, consent or termination which, pursuant to the terms of Section 14.1, requires the consent of all affected lenders, the Senior Lenders holding at least 50.00% of the sum of (a) the aggregate undisbursed Senior Loan Commitments of such affected Senior Lenders *plus* (b) the then aggregate outstanding principal amount of the Senior Loans of such affected Senior Lenders (excluding, in each such case, any Senior Lender that is a Defaulting Lender, a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender, and each Construction/

Term Loan Commitment and any outstanding principal amount of any Construction/Term Loan of any such Senior Lender).

“Majority Construction/Term Lenders” means at any time, the Senior Lenders holding in excess of 50.00% of the sum of (a) the aggregate undisbursed Construction/Term Loan Commitments *plus* (b) the then aggregate outstanding principal amount of the Construction/Term Loans (excluding, in each such case, any Construction/Term Lender that is a Defaulting Lender, a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender, and each Construction/Term Loan Commitment and any outstanding principal amount of any Construction/Term Loan of any such Senior Lender).

“Majority Revolving Lenders” means at any time, the Senior Lenders holding in excess of 50.00% of the sum of (a) the aggregate undisbursed Revolving Loan Commitments *plus* (b) the aggregate Revolving LC Exposure *plus* (c) the then aggregate outstanding principal amount of the Revolving Loans (excluding, in each such case, any Revolving Lender that is a Defaulting Lender, a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender, and each Revolving Loan Commitment, Revolving LC Exposure and any outstanding principal amount of any Revolving Loan of any such Senior Lender).

“Majority Senior Lenders” means at any time, the Senior Lenders holding in excess of 50.00% of the sum of (a) the aggregate undisbursed Senior Loan Commitments *plus* (b) the aggregate Revolving LC Exposure *plus* (c) the then aggregate outstanding principal amount of the Senior Loans (excluding, in each such case, any Senior Lender that is a Defaulting Lender, a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender, and each Senior Loan Commitment, Revolving LC Exposure and any outstanding principal amount of any Senior Loan of any such Senior Lender).

“Mandatory Prepayment Portion” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Market Terms” means terms consistent with or no less favorable to the Borrower (as seller or buyer, as the case may be) than either: (a) any Credit Agreement Designated Offtake Agreements then in effect or (b) the terms a non-Affiliated seller or buyer, as the case may be, of the relevant product could receive in an arm’s-length transaction based on then-current market conditions for transactions of a similar nature and duration and taking into account such factors as the characteristics of the goods and services, the market for such goods and services (including any applicable regulatory conditions), tax effects of the transaction, the location of the Rio Grande Facility and the counterparties.

“Material Project Party” means any party to a Material Project Document (other than the Borrower) and each guarantor or provider of security or credit support in respect thereof.

“Maximum Rate” has the meaning assigned to such term in Section 14.9.

“Minimum Acceptance Criteria” means, as the context may require, the “Minimum Acceptance Criteria” as defined in the T1/T2 EPC Contract, the “Minimum Acceptance Criteria” as defined in the T3 EPC Contract, or both.

“Modification” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Monthly Transfer Date” has the meaning assigned to such term in the P1 Accounts Agreement.

“MTPA” means million metric tonnes per annum.

“Multiemployer Plan” means a multiemployer plan defined as such in Section 3(37) of ERISA to which contributions have been made by the Borrower or any ERISA Affiliate in the past five years and which is covered by Title IV of ERISA.

“Necessary Senior Secured Debt Instrument” means any Senior Secured Debt Instrument providing for Indebtedness without which the Borrower could not reasonably expect to have sufficient funds (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, committed equity, and projected Contracted Revenues under the Credit Agreement Designated Offtake Agreements) to achieve the Term Conversion Date by the Date Certain.

“NGLs” has the meaning assigned to such term in the Definitions Agreement.

“Non-Consenting Lender” has the meaning assigned to such term in Section 5.4(c).

“Non-Debt Fund Affiliate” means any Affiliate of an Equity Owner other than (a) the Pledgor, the Borrower, or any RG Facility Entity, (b) any Debt Fund Affiliates, and (c) any natural Person.

“Non-Declining Senior Lenders” means, collectively, (a) all Specified Senior Lenders (if any) that did not deliver a notice to the P1 Administrative Agent within the time frame in Section 2.4(c) or Section 4.10(f), as applicable, and (b) all Senior Lenders that are not Specified Senior Lenders.

“Notice of Term Conversion” means the Notice of Term Conversion substantially in the form of Exhibit G.

“Notional Amortization Period” means, beginning on the Term Conversion Date, the notional twenty-year amortization period of the Construction/Term Loans set forth in the Base Case Forecast.

“O&M Costs” has the meaning assigned to such term in the Definitions Agreement.

“Obligations” means, collectively, (a) all Indebtedness, Senior Loans, Revolving LCs, advances, debts, liabilities (including any indemnification or other obligations that survive the termination of the P1 Financing Documents (excluding any Senior Secured Debt Instrument other than this Agreement)), and all other obligations, howsoever arising (including Guarantee obligations), in each case, owed by the Borrower to the Credit Agreement Senior Secured Parties (or any of them) of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of the P1 Financing Documents (excluding any Senior Secured Debt Instrument other than this Agreement), (b) any and all sums reasonably advanced by any Credit Agreement Senior Secured Party in order to preserve the Collateral or preserve the security interest of the Credit Agreement Senior Secured Parties in the Collateral, and (c) in the event of any proceeding for the collection or enforcement of the obligations described in clauses (a) and (b) above, after an Event of Default shall have occurred and be continuing and the Senior Loans have been accelerated pursuant to Section 12.1

or Section 12.2, the expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Senior Lenders of their rights under the Senior Security Documents, together with any necessary attorneys' fees and court costs.

"OFAC" means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

"OFAC Laws" means any laws, regulations, and executive orders relating to the economic sanctions programs administered by OFAC, including the International Emergency Economic Powers Act, 50 U.S.C. sections 1701 et seq.; the Trading with the Enemy Act, 50 App. U.S.C. sections 1 et seq.; and the Office of Foreign Assets Control, Department of the Treasury Regulations, 31 C.F.R. Parts 500 et seq. (implementing the economic sanctions programs administered by OFAC).

"OFAC SDN List" means the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC.

"Offsetting Transactions" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Operating Costs" has the meaning assigned to such term in the Definitions Agreement.

"Operator Affiliate" has the meaning assigned to such term in the Definitions Agreement.

"Organic Document" means, with respect to any Person that is a corporation, its certificate of incorporation, its by-laws and all shareholder agreements, voting trusts and similar arrangements applicable to any of its authorized shares of capital stock, with respect to any Person that is a limited liability company, its certificate of formation or articles of organization and its limited liability company agreement, and, with respect to any Person that is a partnership or limited partnership, its certificate of partnership and its partnership agreement.

"Other Connection Taxes" means, with respect to the P1 Administrative Agent, any Senior Lender or the Revolving LC Issuing Bank or any other recipient of any payment made pursuant to any obligation of the Borrower under any P1 Financing Document, Taxes imposed as a result of a former or present connection between such Person and the jurisdiction imposing such Tax (other than connections arising from such Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any P1 Financing Document, or sold or assigned an interest in any Senior Loan or P1 Financing Document).

"Other Taxes" mean any and all present or future stamp or documentary taxes, court, intangible, recording, filing, or similar Taxes arising from any payment made under any P1 Financing Document or from the execution, delivery or enforcement of, or otherwise with respect to, any P1 Financing Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.4).

"Owner" has the meaning assigned to such term in the Definitions Agreement.

"P1 Administrative Agent" means MUFG Bank, Ltd., not in its individual capacity, but solely as P1 Administrative Agent for the Senior Loans hereunder, and each other Person that may, from time to time, be appointed as successor P1 Administrative Agent pursuant to Section 13.7.

"P1 Administrative Agent Fee Letter" means the P1 Intercreditor Agent and P1 Administrative Agent Fee Letter, dated as of July 12, 2023, between the Borrower and the P1 Administrative Agent.

"P1 CASA Advisor" has the meaning assigned to such term in the P1 CASA.

"P1 Common Facilities" has the meaning assigned to such term in the Definitions Agreement.

"P1 Construction Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Debt Prepayment Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Deed of Trust" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"P1 Distribution Collateral" means a Distribution LC or a Distribution Guaranty, as the context may require, for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders and the TCF Senior Lenders in satisfaction of Section 9.10(a)(ii).

"P1 Equity Guarantor" means any Person that has entered into a P1 Equity Guaranty in accordance with the P1 Equity Contribution Agreement.

"P1 Equity Guaranty" means the "Equity Guaranty" as defined in the P1 Equity Contribution Agreement.

"P1 Financing Documents" means (a) each of the documents set forth in the definition of "P1 Financing Documents" in the Common Terms Agreement and (b) the Bank Financing Documents. Section 1.2(d) applies to the definition of P1 Financing Document, as used in any other P1 Financing Document.

"P1 Project Costs" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Major EPC Sub-subcontractor" means a "Major Sub-subcontractor", as defined in the P1 EPC Contracts.

"P1 Major EPC Subcontractor" means a "Major Subcontractor", as defined in the P1 EPC Contracts.

"P1 Mortgaged Property" means, at any time of determination, all Real Estate included in the Collateral or for which the P1 Financing Documents contemplate inclusion at such time in the Collateral, as applicable.

"P1 Pledge Agreement" means the "Pledge Agreement" as defined in the Collateral and Intercreditor Agreement.

"P1 Pre-Completion Revenue Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Security Agreement" means the "Security Agreement" as defined in the Collateral and Intercreditor Agreement.

“Participant” has the meaning assigned to such term in Section 14.4(d).

“Participant Register” has the meaning assigned to such term in Section 14.4(d).

“Party” or **“Parties”** has the meaning assigned to such term in the Preamble.

“Patriot Act” means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) of 2001, and the rules and regulations promulgated thereunder from time to time in effect.

“Payment Recipient” has the meaning assigned to such term in Section 13.12(a).

“PBGC” means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

“Pension Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Performance Guarantees” has the meaning assigned to such term in the P1 EPC Contracts.

“Performance Liquidated Damages” means any liquidated damages resulting from the Project’s performance which are required to be paid by the P1 EPC Contractor or any other Material Project Party for or on account of any diminution to the performance of the Project.

“Performance Test” means the Performance Tests under the P1 EPC Contracts and the Lenders’ Reliability Test.

“Permitted Completion Amount” means a sum equal to an amount certified by the Borrower and the Independent Engineer on the Term Conversion Date and approved by the P1 Administrative Agent (acting reasonably) as necessary to pay 125% of the Permitted Completion Costs.

“Permitted Completion Costs” means unpaid P1 Project Costs (including P1 Project Costs not included in the Construction Budget and Schedule delivered on the Closing Date) reasonably anticipated to be required for the Project to pay all remaining costs associated with outstanding Punchlist (as such term is defined in the P1 EPC Contracts) work, retainage, fuel incentive payments, disputed amounts, and other costs required under the P1 EPC Contracts.

“Permitted Liens” has the meaning assigned to such term in the Collateral and Intercreditor Agreement; provided, that, prior to the Credit Agreement Discharge Date, Liens described in clauses (c), (g), and (h) of Section 3.9 (*Permitted Liens*) of the Collateral and Intercreditor Agreement shall be considered Permitted Liens under the P1 Financing Documents solely to the extent that they are subject to a Contest. Section 1.2(d) applies to the definition of Permitted Liens, as used in any other P1 Financing Document.

“Pipeline Manager Affiliate” has the meaning assigned to such term in the Definitions Agreement.

“Plan” means any “employee benefit plan” as defined in Section 3(3) of ERISA, including any “employee welfare benefit plan” (as defined in Section 3(1) of ERISA) and/or any “employee pension benefit plan” (as defined in Section 3(2) of ERISA), that is or was maintained or contributed to by the Borrower or any ERISA Affiliate.

“Platform” has the meaning assigned to such term in Section 14.11(h).

“Pre-Completion Distribution Release Test Certificates” means certificates in respect of each of Train 1 and Train 2, in each case substantially in the form attached hereto as Exhibit P-2.

“Pre-Completion Revenue Distributions” means Distributions in accordance with clause (f) of the definition of “Extraordinary Distributions”.

“Precedent Agreement” means the Precedent Agreement for Firm Natural Gas Transportation Service for the Rio Bravo Pipeline, dated as of March 2, 2020, as amended on April 8, 2022, March 23, 2023, and July 12, 2023, between Rio Bravo Pipeline Company, LLC and Rio Grande LNG Gas Supply LLC.

“Prime Rate” means the rate of interest per annum publicly announced from time to time by the Person acting as the P1 Administrative Agent as its prime rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The P1 Administrative Agent or any Revolving LC Issuing Bank or Senior Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of such change.

“Principal Payment Date” means the Initial Principal Payment Date and each Quarterly Payment Date thereafter.

“Prudent Industry Practice” means, at a particular time, any of the practices, methods, standards and procedures (including those engaged in or approved by a material portion of the LNG industry) that, at that time, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, including due consideration of the Project's reliability, environmental compliance, economy, safety and expedition, and which practices, methods, standards and acts generally conform to International LNG Terminal Standards and International LNG Tanker Standards.

“PUCT” has the meaning assigned to such term in the Definitions Agreement.

“PUHCA” has the meaning assigned to such term in the Definitions Agreement.

“PURA” has the meaning assigned to such term in Section 6.16(c).

“Qualified Energy Company” means, to the extent satisfying the KYC Requirements, a Person: (a) (i) that is, owns, or is Controlled by, or whose ultimate parent company is, (A) an international reputable oil and gas or LNG company (integrated or non-integrated) substantially involved in the exploration, development, production or marketing of hydrocarbons, (B) a power company or utility that has not less than 5000 megawatts of power generation assets under ownership, management and operation of which at least 2500 megawatts are attributable to gas-fired power generation assets, or (C) a utility or trading company, a substantial portion of whose business involves the ownership, transportation, liquefaction, regasification or purchase, sale or

trading of gas or LNG, (ii) with a tangible net worth of no less than \$5,000,000,000, and (iii) that is not, or whose ultimate parent company is not, an Affiliate of any Government Authority; or (b) that is, or is an Affiliate of the Sponsor or any Approved Owner.

"Qualified Investment Entities" means, to the extent satisfying the KYC Requirements, any Person that is managed or advised by a Qualified Investment House or its Related Entities; where (i) "advised" means being in receipt of implementing advice in relation to the management of investments of a person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant Person and (ii) "Related Entities" means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under direct or indirect common Control with such Person.

"Qualified Investment House" means (a) Global Infrastructure Management, LLC or (b) any other investment manager who (i) has aggregate assets under management and committed capital in excess of \$10,000,000,000 and (ii) has satisfied the KYC Requirements.

"Qualifying LC Issuer" has the meaning assigned to such term in the P1 Accounts Agreement.

"Qualified Offtake Agreement" means the Initial Offtake Agreements and any other Offtake Agreement that meets each of the following conditions: (a) such Offtake Agreement is entered into for a Qualified Term with a Qualified Offtaker, (b) such Offtake Agreement provides for the delivery of LNG on an FOB or Delivered basis, (c) the Borrower has delivered to the P1 Administrative Agent notice of the proposed terms of such Offtake Agreement and such terms (other than as specified in the foregoing clauses (a) and (b)) are consistent, in all material respects with (or not materially less favorable in the aggregate to the interests of the Borrower than) those set forth in any of Qualified Offtake Agreements then in effect, and (d) the execution of such Qualified Offtake Agreement and performance by the Borrower of its obligations under such Qualified Offtake Agreement shall not result in a breach of any Qualified Offtake Agreement then in effect, or any Required Export Authorization then in-effect and any additional Required Export Authorizations that are necessary in connection with the execution of such Offtake Agreement.

"Qualified Offtaker" means, to the extent satisfying the Senior Lenders' KYC Requirements,

- (a) (i) any Initial Offtaker so long as, either (A) such Initial Offtaker is not required to provide credit support on the Closing Date in respect of its obligations under the Initial Offtake Agreement to which is a party or (B) such Initial Offtaker has entered into the applicable Credit Agreement Designated Offtake Agreement after the Closing Date that provides for credit support requirements that are either substantially similar to those included in the applicable Initial Offtake Agreement or more favorable to the Borrower and (ii) any entity that, as of the Closing Date, provides a guaranty in respect of an Initial Offtaker's obligations under the Initial Offtake Agreement to which it is a party;
- (b) any offtaker under any Offtake Agreement which, as of the date it enters into the applicable Credit Agreement Designated Offtake Agreement (or, if later, the date on which the applicable Offtake Agreement is designated as a Credit Agreement Designated Offtake Agreement pursuant to Section 8.5, as applicable), is, or whose obligations under such Credit Agreement Designated Offtake Agreement are guaranteed by an entity that is, Investment Grade;

- (c) any offtaker under any Offtake Agreement that has provided one or more (x) guarantees from a guarantor that is Investment Grade and/or (y) letters of credit issued by a Qualifying LC Issuer, that are each issued for the benefit of the Borrower in respect of its obligations under its applicable Offtake Agreement, in the case of clauses (x) and/or (y), in an amount (in the aggregate) equal to the greater of:
 - (i) 50% of the present value of the Contracted Revenues from the applicable Credit Agreement Designated Offtake Agreement during the remaining Qualified Term of such Credit Agreement Designated Offtake Agreement; and
 - (ii) 100% of the present value of the Contracted Revenues from the applicable Credit Agreement Designated Offtake Agreement during the lesser of (A) the succeeding seven years under such Credit Agreement Designated Offtake Agreement and (B) the remaining term of such Credit Agreement Designated Offtake Agreement;
- (d) in respect of Qualified Offtake Agreements for volumes not in excess of 2.0 MTPA in the aggregate or 1.0 MTPA per Qualified Offtake Agreement, any of Vitol Inc., Glencore Ltd., Trafigura Pte Ltd, and Petrobras Global Trading B.V.; and
- (e) so long as the Borrower has other Credit Agreement Designated Offtake Agreements for at least 12.25 MTPA of ACQ with an offtaker that satisfies the criteria set forth in any of clauses (a) – (c) above, any offtaker that has, or whose obligations under the applicable Credit Agreement Designated Offtake Agreement are guaranteed by an entity that has, a tangible net worth of at least \$3,000,000,000 per 1.0 MTPA of ACQ.

“Qualified Offtaker Investors” means (a) any Initial Offtaker that is not required to provide credit support on the Closing Date in respect of its obligations under the Initial Offtake Agreement to which is a party, (b) any entity that, as of the Closing Date, provides a guaranty in respect of an Initial Offtaker’s obligations under the Initial Offtake Agreement to which such Initial Offtaker is a party, (c) any entity that provides a guaranty as contemplated by clause (b) or clause (c) of the definition of “Qualified Offtaker”, (d) any entity referred to in clause (d) or clause (e) of the definition of “Qualified Offtaker”, and (e) to the extent satisfying the Senior Lenders’ KYC Requirements, any entity that Controls any of the foregoing.

“Qualified Public Company” means any publicly listed indirect parent of the Borrower following a Qualified Public Offering, so long as following such Qualified Public Offering, no person (other than such entity, the Sponsor, the Approved Owners, Qualified Investment Entities, Qualified Offtaker Investors, Qualified Energy Companies, such publicly listed parent company following such Qualified Public Offering or any underwriter or placement agent participating in such Qualified Public Offering) or persons constituting a “group” (within the meaning of Section 13(d) of the Securities Exchange Act of 1934 or any successor provision) (excluding employee benefit plans of the Borrower or any of its Affiliates and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the beneficial owner, directly or indirectly, of more than 50% of the economic interests in the Borrower and, directly or indirectly, Controls the Borrower.

“Qualified Public Offering” means any public offering of the Sponsor or its Affiliates with any indirect ownership interest in the Borrower or any direct or indirect shareholder of the Borrower.

“Qualified Term” means (a) with respect to any Credit Agreement Designated Offtake Agreement other than a replacement Credit Agreement Designated Offtake Agreement, the term of such Offtake Agreement used in the Base Case Forecast when determining the applicable quantum of Senior Secured Debt that could be incurred based on the revenues projected to be generated under such **Credit Agreement Designated Offtake Agreement** and (b) with respect to one or more **Credit Agreement Designated Offtake Agreements** entered into to replace any terminated Credit Agreement Designated Offtake Agreement, (i) a term at least as long, taken as a whole, as the remaining term of the terminated Credit Agreement Designated Offtake Agreement that such Offtake Agreement(s) are replacing or (ii) the term for such replacement **Credit Agreement Designated Offtake Agreement(s)** used in the Base Case Forecast to calculate the quantum of Senior Secured Debt required to be prepaid pursuant to Section 4.10(b) as a result of the terminated Credit Agreement Designated Offtake Agreement and entry into such replacement **Credit Agreement Designated Offtake Agreement(s)**.

“Qualifying LC Issuer” has the meaning assigned to such term in the **P1 Accounts Agreement**.

“Real Estate” means all real property leases and all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Person, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

“Real Property Interests” means, collectively, the Borrower’s subleasehold interest under the P1 Sublease and the Easements granted to the Borrower under the Facility Easement Agreements.

“Recipient” means (a) the P1 Administrative Agent, (b) any Senior Lender, or (c) any Revolving LC Issuing Bank, as applicable.

“Regional Coordinators” means Abu Dhabi Commercial Bank PJSC and Bank of China, New York Branch, in each case, not in its individual capacity, but as a documentation agent hereunder.

“Register” has the meaning assigned to such term in Section 2.10(d).

“Regulation T”, **“Regulation U”**, and **“Regulation X”** means, respectively, Regulation T, Regulation U, and Regulation X of the Board of Governors of the Federal Reserve System.

“Reinstatement Debt” means Relevering Debt that satisfies (a) the conditions set forth in Section 2.5 *Relevering Debt* of the Common Terms Agreement and (b) the following conditions:

- (i) any LNG Sales Mandatory Prepayment Event has occurred;
- (ii) such LNG Sales Mandatory Prepayment Event shall have been cured pursuant to each applicable Senior Secured Debt Instrument;
- (iii) such Reinstatement Debt is incurred no later than two years after all applicable LNG Sales Mandatory Prepayments in respect of such LNG

Sales Mandatory Prepayment Event have been made pursuant to the applicable Senior Secured Debt Instruments;

- (iv) the principal amount of such Reinstatement Debt does not exceed: (A) the amount of such LNG Sales Mandatory Prepayment *plus* (B) all premiums, fees, costs, expenses and reserves (including any incremental increase in the DSRA Reserve Amounts resulting from the incurrence of such Reinstatement Debt) associated with arranging, issuing and incurring such Reinstatement Debt *plus* (C) 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;
- (v) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that all Senior Secured Debt (after taking into account the incurrence of such Reinstatement Debt) outstanding at such time is capable of amortization such that the Credit Agreement Projected DSCR commencing on the ~~initial~~ **first** Principal Payment Date **after the incurrence of the Reinstatement Debt** and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the expiration of the term of the Notional Amortization Period shall not be less than 1.45:1.00; provided, that for purposes of this clause (v) the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume, if such Reinstatement Debt is incurred prior to the Term Conversion Date, that all Senior Secured Debt Commitments will be fully drawn; and
- (vi) concurrently with the incurrence of any Reinstatement Debt, the Borrower shall apply the proceeds of such Reinstatement Debt in the following order: (A) *first*, to pay all premiums, fees, costs, expenses and reserves (including any incremental increase in the DSRA Reserve Amount resulting from the incurrence of such Reinstatement Debt) associated with arranging, issuing, and incurring such Reinstatement Debt (B) *second*, to fund any reserves (including any incremental increase in the DSRA Reserve Amount) resulting from the incurrence of such Reinstatement Debt (C) *third*, to (1) pay any P1 IR Hedge Termination Amount that is or will be due and payable with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence or (2) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence and (D) *fourth*, to make Distributions to the Pledgor.

“Related Entity” means, with respect to any Person, any other person directly or indirectly Controlling, Controlled by or under direct or indirect common Control with such Person.

“Relevant Governmental Body” means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

“Replacement Debt Commitment Reduction Notice” has the meaning assigned to such term in Section 2.4(c).

“Replacement Debt Prepayment Notice” has the meaning assigned to such term in Section 4.10(f).

“Request for Issuance” has the meaning assigned to such term in Section 3.1(b).

“Required EPC Change Order” means a Change Order under the P1 EPC Contracts that is triggered as a result of an event described in Section 6.2A (*Change Orders Requested by Contractor*) of the P1 EPC Contracts (excluding only the event described in Section 6.2A.1 of the P1 EPC Contracts).

“Required Export Authorizations” means, with respect to each Credit Agreement Designated Offtake Agreement at any time, the DOE Export Authorization and any other export authorization that the Borrower designates as a “Required Export Authorization” in connection with the entry into, or designation of, a Credit Agreement Designated Offtake Agreement, in each case, to the extent that, at such time, the volumes permitted to be exported under the DOE Export Authorization or such export authorization, as the case may be, are required in order to enable the sale of such Credit Agreement Designated Offtake Agreement’s share of the then-applicable Base Committed Quantity of LNG in accordance with the terms of such Credit Agreement Designated Offtake Agreement.

“Required LNG Tanker Capacity” means, at any time, the LNG Tanker capacity required to ship the aggregate volume of LNG subject to delivery obligations at such time pursuant to Credit Agreement Designated Offtake Agreements that are on Delivered terms, which may be provided by one or more Time Charter Party Agreements.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Restoration Plan” has the meaning assigned to such term in the Definitions Agreement.

“Restoration Work” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Restricted Document” has the meaning assigned to such term in Section 14.17.

“Restricted Lender” has the meaning assigned to such term in Section 14.28.

“Restricted Person” means a Person that is: (a) the target of Sanctions Regulations; (b) a Canada Blocked Person; (c) a Person listed on, or acting on behalf of a Person listed on, any Sanctions List; (d) a Person located, organized, or ordinarily resident in a country, territory, or region that is, or whose government is, the target of country-wide or territory-wide comprehensive Sanctions Regulations (as of the date of this Agreement, Cuba, Iran, North Korea, Syria, the Crimea, Kherson, and Zaporizhzhia regions of Ukraine, the so-called Donetsk People’s Republic, and the so-called Luhansk People’s Republic) but excluding, for the elimination of doubt, the United States; or (e) a Person owned more than 50% by or otherwise controlled by a Person or Persons, country, territory, or region in clauses (a) through (d).

~~“Revocation”~~ means, with respect to any DOE Export Authorization: ~~(a) the rescission, revocation, staying, withdrawal, early termination, cancellation, repeal or invalidity thereof or~~

~~otherwise ceasing to be in full force and effect, in whole or in part; (b) the suspension or injunction thereof, in whole or in part; (c) the inability to satisfy in a timely manner stated conditions to effectiveness thereto; or (d) any amendment, modification or supplementation thereof in whole or in part, the effect of which is to reduce any quantity of LNG thereunder or the term thereof or adversely modify the date of the commencement of the term thereof. The verb "Revoke" shall have a correlative meaning.~~

"Revolving LC" means a letter of credit, in the form reasonably satisfactory to the P1 Administrative Agent and the Revolving LC Issuing Bank, issued pursuant to Section 3.1.

"Revolving LC Available Amount" means, on any date of determination, the maximum amount available to be drawn under all Revolving LCs as of such date (assuming the satisfaction of all conditions for drawing enumerated therein).

"Revolving LC Disbursement" means a payment made by the Revolving LC Issuing Bank pursuant to any Revolving LC prior to the reimbursement of such amount by the Revolving Lenders in accordance with Section 3.2.

"Revolving LC Exposure" means, with respect to any Revolving Lender, at any time, its Revolving Loan Commitment Percentage at such time of the sum of (a) the Revolving LC Available Amount and (b) the aggregate amount of all Revolving LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower or paid by such Senior Lender pursuant to Section 3.2 at such time.

"Revolving LC Issuing Bank" means (a) MUFG Bank, Ltd. and (b) any other Revolving Lender that becomes a Revolving LC Issuing Bank pursuant to Section 3.6, in each case other than any Person that has ceased to be a Revolving LC Issuing Bank pursuant to Section 3.6.

"Revolving LC Issuing Bank Fee Letter" means the Fee Letter dated as of July 12, 2023, between the Borrower and MUFG Bank, Ltd., as Revolving LC Issuing Bank.

"Revolving LC Lender Payment Notice" has the meaning assigned to such term in Section 3.2(c).

"Revolving LC Loan" means each Revolving Loan deemed made by a Revolving Lender pursuant to Section 3.2 in connection with a draw upon the Revolving LC.

"Revolving LC Payment Notice" has the meaning assigned to such term in Section 3.2(a).

"Revolving LC Reimbursement Payment" has the meaning assigned to such term in Section 3.2(b).

"Revolving Lenders" means those Senior Lenders that have a Revolving Loan Commitment.

"Revolving Loan" means a loan by a Revolving Lender to the Borrower pursuant to Section 2.8, Section 2.10 and any Revolving LC Loan.

"Revolving Loan Availability Period" means the period commencing on the Closing Date and ending on the earliest to occur of (a) ~~thirty days prior to~~ the Credit Agreement Maturity Date and (b) the date Revolving Loan Commitments are terminated upon the occurrence and during the continuance of an Event of Default.

“Revolving Loan Borrowing” means each disbursement of Revolving Loans by the Revolving Lenders (or the P1 Administrative Agent on their behalf) on any single date to the Borrower in accordance with Section 2.8 and Section 2.10.

“Revolving Loan Borrowing Notice” means each request for Revolving Loan Borrowing of Revolving Loans substantially in the form of Exhibit D-2 and delivered in accordance with Section 2.7.

“Revolving Loan Commitment” means, with respect to each Senior Lender, the commitment of such Senior Lender to make Revolving Loans or acquire participations in Revolving LCs, as set forth opposite the name of such Senior Lender in the column entitled “Revolving Loan Commitment” in Schedule 2, or if such Senior Lender has entered into one or more Lender Assignment Agreements, set forth opposite the name of such Senior Lender in the Register maintained by the P1 Administrative Agent pursuant to Section 2.10(d) as such Senior Lender’s Revolving Loan Commitment, as the same may be reduced in accordance with Section 2.9.

“Revolving Loan Commitment Percentage” means, as to any Revolving Lender at any time, the percentage that such Revolving Lender’s Revolving Loan Commitment then constitutes of the Aggregate Revolving Loan Commitment.

“Revolving Loan Notes” means the promissory notes of the Borrower, substantially in the form of Exhibit B evidencing Revolving Loans, in each case duly executed and delivered by an Authorized Officer of the Borrower in favor of each Revolving Lender, including any promissory notes issued by the Borrower in connection with assignments of any Revolving Loan of the Revolving Lenders, as they may be amended, restated, supplemented or otherwise modified from time to time.

“RG Facility Entity Permitted Liens” means Liens permitted pursuant to clauses (b)-(g) of the definition of Permitted Liens in the Definitions Agreement (and with respect to clause (e) of the definition thereof, only to the extent such Liens are with respect to Indebtedness permitted pursuant to Section 9.12(h)).

“Rio Bravo Pipeline” means the natural gas pipeline and related infrastructure referred to in the Precedent Agreement as the “Project” and each Pipeline (as defined in the Precedent Agreement) comprising the Project.

“Sanctioned Country” means, at any time, a country or territory that is itself the target of comprehensive Sanctions Regulations (as of the date of this Agreement, Cuba, Iran, Syria, North Korea, Crimea, the so-called Donetsk People’s Republic, and the so-called Luhansk People’s Republic).

“Sanctions Authorities” means (a) the United States, (b) the United Nations (acting through the United Nations Security Council as a whole and not each individual member or member state), (c) the European Union (as a whole and not each member state), (d) the United Kingdom, (e) Canada, (f) Germany, or (g) the respective governmental institutions and agencies of any of the foregoing, including OFAC, the United States Department of State, and HMT.

“Sanctions List” means the OFAC SDN List, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of sanctions designation under Sanctions Regulations made by, any of the Sanctions Authorities but excluding, in all cases, to the extent such list is made by any Sanctions Authority and targeted against the United States or Persons in or connected to the United States.

“Sanctions Regulations” means the applicable economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the Sanctions Authorities, including the OFAC Laws but excluding, in all cases, to the extent administered, enacted or enforced by any other Sanctions Authority against the United States.

“Sanctions Violation” has the meaning assigned to such term in Section 8.7(d).

“Senior Lenders” means those Senior Lenders identified on Schedule 2 and each other Person that acquires the rights and obligations of any such Senior Lender pursuant to Section 14.4(b).

“Senior Loan” means, as applicable, a Construction/Term Loan or a Revolving Loan.

“Senior Loan Borrowing” means, as applicable, a Construction/Term Loan Borrowing or a Revolving Loan Borrowing.

“Senior Loan Commitments” means, collectively, the Construction/Term Loan Commitments and the Revolving Loan Commitments.

“Senior Loan Note” means, as applicable, a Construction/Term Loan Note or a Revolving Loan Note.

“Senior Managing Agents” means Arab Petroleum Investments Corporation, Kookmin Bank, New York Branch, and United Overseas Bank Limited, New York Agency, in each case, not in its individual capacity, but as a senior managing agent hereunder and any successors and permitted assigns.

“Senior Secured Hedge Agreements” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured IR Hedge Agreements” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured IR Hedge Counterparties” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“SOFR” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SOFR Determination Day” has the meaning specified in the definition of “Daily Compounded SOFR”.

“SOFR Loans” means Senior Loans bearing interest based upon Daily Compounded SOFR, other than pursuant to clause (c) of the definition of “Base Rate”.

“SOFR Rate Day” has the meaning specified in the definition of “Daily Compounded SOFR”.

“Solvent” means, with respect to any Person as of the date of any determination, that on such date:

- (a) the fair valuation of the property of such Person is greater than the total liabilities, including contingent liabilities, of such Person;
- (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured;
- (c) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations, and other commitments as they mature in the normal course of business;
- (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature; and
- (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute unreasonably small capital after giving due consideration to current and anticipated future business conduct.

In computing the amount of contingent liabilities at any time, such liabilities shall be computed at the amount which, in light of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Special Flood Hazard Area” means an area having special flood hazards as described in the National Flood Insurance Act of 1968.

“Specified Senior Lender” means each Senior Lender that, as of the date of determination, holds an aggregate amount of unfunded Construction/Term Loan Commitments and outstanding Construction/Term Loans in an amount less than \$300,000,000.

“Sub-Charter Agreement” has the meaning assigned to such term in Section 8.10(e).

“Subsequent Train Facility” has the meaning assigned to such term in the Definitions Agreement.

“Supermajority Senior Lenders” means at any time, the Senior Lenders holding in excess of 66.66% of the sum of (a) the aggregate undisbursed Senior Loan Commitments *plus* (b) the then aggregate outstanding principal amount of the Senior Loans (excluding in each such case any Senior Lender that is a Defaulting Lender, a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender, and each Senior Loan Commitment and any outstanding principal amount of any Senior Loan of any such Senior Lender).

“Survey” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Syndication Agents” means Abu Dhabi Commercial Bank PJSC, Banco Santander S.A., New York Branch, Bank of China, New York Branch, Intesa Sanpaolo S.P.A., New York Branch, Mizuho Bank, Ltd., and MUFG Bank, Ltd., in each case, not in its individual capacity, but as a syndication agent hereunder and any successors and permitted assigns.

“Term Conversion Date” means date on which the satisfaction of the conditions set forth in Section 7.6 of this Agreement are satisfied (or waived by P1 Administrative Agent, with the consent of the Majority Senior Lenders).

“Term Conversion Date Drawing” has the meaning assigned to such term in Section 2.1(d).

“Termination Payments” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Trade Date” has the meaning assigned to such term in Section 14.4(j)(i).

“Train 1” has the meaning assigned to such term in the T1/T2 EPC Contract.

“Train 2” has the meaning assigned to such term in the T1/T2 EPC Contract.

“Train 3” has the meaning assigned to such term in the T3 EPC Contract.

“Train Facility” has the meaning assigned to such term in the Definitions Agreement.

“Train Facility Sublease” has the meaning assigned to such term in the Definitions Agreement.

“Tranche” as the context may require, means Tranche A, Tranche B, and Tranche C.

“Tranche A” has the meaning assigned to such term in Section 2.1(f).

“Tranche B” has the meaning assigned to such term in Section 2.1(f).

“Tranche C” has the meaning assigned to such term in Section 2.1(f).

“Tug Services Agreement” means that certain First Amended and Restated Tug Services Agreement, dated as of June 28, 2023, between CFCo and Gulf LNG Tugs of Brownsville, LLC.

“Type”, when used in reference to any Senior Loan or Senior Loan Borrowing, refers to whether the rate of interest on such Senior Loan, or on the Senior Loans comprising such Senior Loan Borrowing, is determined by reference to Daily Compounded SOFR or the Base Rate.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday, or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“U.S. Person” means a “United States person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 5.6(g).

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unanimous Decision” means, in respect of Modifications, Consents and Waivers of and under P1 Collateral Documents, (a) reducing the percentage or other voting thresholds specified in respect of matters requiring approval of the Senior Secured Parties; (b) changing or otherwise adversely impacting the priority of the Liens over the Collateral (except as allowed under the P1 Financing Documents); (c) changing the provisions of the P1 Financing Documents providing for the *pari passu* ranking of the Senior Secured Debt; (d) amending or waiving Article III ~~(The P1 Accounts)~~ of the P1 Accounts Agreement; (e) amending this definition of Unanimous Decision; (f) releasing all or any material portion of the Collateral from the Lien of any of the Senior Security Documents (other than (x) upon the sale, conveyance, lease, transfer or other disposal of assets that do not constitute all or substantially all of the assets of the Borrower or (y) the termination, assignment, or other disposition of Material Project Documents in accordance with the P1 Financing Documents or otherwise upon Majority Senior Lender approval); and (g) modifying any of the following provisions of the Collateral and Intercreditor Agreement: Section 9.7 (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*), Section 9.8 (*Application of Collateral Proceeds to the Senior Secured Obligations Following an Enforcement Action*), and Article 10 (*Application of Replacement Debt to the Senior Secured Obligations*).

“Unmatured LNG Sales Mandatory Prepayment Event” means an event that, with the lapse of a cure period, would become an LNG Sales Mandatory Prepayment Event.

“Upfront Fee Letter” means the Fee Letter dated as of June 23, 2023, among the Borrower, Abu Dhabi Commercial Bank PJSC, Arab Petroleum Investments Corporation, Bank of China, New York Branch, Clifford Capital Pte. Ltd., HSBC Bank USA, N.A., Intesa Sanpaolo S.P.A., New York Branch, JPMorgan Chase Bank, N.A., The Korea Development Bank, KfW IPEX-Bank GmbH, Kookmin Bank, New York Branch, Mizuho Bank, Ltd., MUFG Bank, Ltd., National Bank of Canada, Royal Bank of Canada, Riyadh Bank Houston Agency, Banco Santander S.A., New York Branch, The Bank of Nova Scotia, Houston Branch, Standard Chartered Bank, and United Overseas Bank Limited, New York Agency.

“Waiver” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Withdrawal Certificate” has the meaning assigned to such term in the P1 Accounts Agreement.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means the Borrower, the P1 Administrative Agent and the P1 Collateral Agent.

“Work” has the meaning assigned to such term in the P1 EPC Contracts.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time

to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

AMENDMENT NO. 1 TO TCF CREDIT AGREEMENT

This AMENDMENT NO. 1 TO TCF CREDIT AGREEMENT (this "Amendment"), dated as of November 1, 2023, amends that certain TCF Credit Agreement, dated as of July 12, 2023 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement" and, as it may be further amended, amended and restated, supplemented or otherwise modified from time to time, the "TCF Credit Agreement") by and among RIO GRANDE LNG, LLC, a limited liability company formed under the laws of the State of Texas (the "Borrower"), TOTALENERGIES HOLDINGS SAS, a société par actions simplifiée (a simplified joint stock company) organized under the laws of France, ("Total Holdings"), the SENIOR LENDERS from time to time party thereto, MUFG BANK, LTD., in its capacity as the TCF Administrative Agent (the "TCF Administrative Agent"), and MIZUHO BANK (USA), as the P1 Collateral Agent.

WHEREAS, the parties to this Amendment desire to amend the Existing Credit Agreement as provided herein;

WHEREAS, Section 14.30(b) of the Existing Credit Agreement requires the written consent of Total Holdings with respect to the Reserved Matters;

WHEREAS, the proposed amendment as provided herein constitutes a Reserved Matter under the Existing Credit Agreement; and

WHEREAS, Total Holdings is willing to consent to the proposed amendment as provided herein.

NOW, THEREFORE, in consideration of the foregoing premises and the agreements and undertakings set forth herein, the parties to this Amendment agree as follows:

Section 1. Definitions: Principles of Interpretation.

Capitalized terms used, but not otherwise defined, in this Amendment shall have the respective meanings given to them in the TCF Credit Agreement. The principles of interpretation and construction applicable to the TCF Credit Agreement pursuant to Section 1.2 (*Principles of Interpretation*) of the TCF Credit Agreement shall apply to this Amendment, *mutatis mutandis*.

Section 2. Amendments to TCF Credit Agreement.

Effective as of the Amendment Effective Date (as defined below), the Borrower, the TCF Administrative Agent, and each of the Senior Lenders hereby agree that, and Total Holdings hereby consents that:

(a) the Existing Credit Agreement is hereby amended to delete the stricken text (indicated in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated in the same manner as the following example: double-underlined text) as set forth on Exhibit A attached hereto; and

(b) Exhibit O-1 (*Construction Budget*) to the Existing Credit Agreement is hereby deleted in its entirety and is hereby replaced for all purposes with the new Exhibit O-1 (*Construction Budget*) attached hereto as Exhibit B.

Section 3. Effectiveness of Amendments.

The amendments set forth in Section 2 shall be effective upon the date (the "Amendment Effective Date") on which the TCF Administrative Agent has received duly executed counterparts of this Amendment from Borrower, the TCF Administrative Agent, each of the Senior Lenders, and Total Holdings.

Section 4. Representations and Warranties.

The Borrower represents and warrants for the benefit of the TCF Administrative Agent, the Senior Lenders, and Total Holdings that:

- (a) no Default or Event of Default has occurred and is continuing or will occur upon giving effect to the transactions and agreements contemplated under this Amendment;
- (b) the Borrower has the power and authority to execute and deliver, and to perform its obligations under this Amendment and the execution, delivery, and performance of its obligations under this Amendment do not conflict with its Organic Documents; and
- (c) this Amendment has been duly executed by the Borrower and (assuming the due execution and delivery by the counterparties hereto) constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

Section 5. Limited Effect on TCF Credit Agreement and Bank Financing Documents.

- (a) Except as expressly provided for herein, the terms and conditions of the Existing Credit Agreement shall continue unchanged and shall remain in full force and effect. The amendments agreed to herein shall apply solely to the matters set forth herein and such amendments shall not be deemed or construed as a consent to or an amendment of any other matters.
- (b) This Amendment shall constitute a Bank Financing Document. Upon the effectiveness hereof, each reference to the TCF Credit Agreement in the TCF Credit Agreement or in any other Bank Financing Document shall mean and be a reference to the TCF Credit Agreement as amended hereby (and as it may be further amended, amended and restated, supplemented or otherwise modified from time to time).
- (c) Neither the execution and delivery of this Amendment nor any of the terms, covenants, conditions or other provisions set forth herein are intended, nor shall they be deemed or construed, to effect a novation of any Liens or Senior Secured Obligations under the TCF Credit Agreement or to pay, extinguish, release, satisfy or discharge (i) the Senior Secured Obligations under the TCF Credit Agreement, (ii) the liability of any Loan Party under the TCF Credit Agreement or the other Bank Financing Documents or any Senior Secured Obligations or other obligations evidenced thereby, or (iii) any mortgages, deeds of trust, liens, security interests or contractual or legal rights securing all or any part of such Senior Secured Obligations.
- (d) Borrower hereby (i) agrees that this Amendment and the transactions contemplated hereby shall not limit or diminish any Loan Party's obligations arising under or pursuant to the Bank Financing Documents to which it is a party, (ii) reaffirms all of each Loan Party's obligations under the TCF Credit Agreement and the other Bank Financing Documents to which it is a party, and (iii) acknowledges and agrees that the TCF Credit Agreement and each other Bank Financing Document executed by each Loan Party remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

Section 6. Severability.

If any provision of this Amendment is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. GOVERNING LAW.

THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.

Section 8. Binding Nature and Benefit.

This Amendment shall be binding upon and inure to the benefit of each party hereto and their respective successors and permitted assigns.

Section 9. Counterparts.

This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Amendment shall become effective when it has been executed by the TCF Administrative Agent and when the TCF Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or portable document format ("pdf") shall be effective as delivery of a manually executed counterpart of this Amendment. The words "execution," "signed," "signature," and words of like import in this Amendment shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed and delivered as of the day and year first above written.

RIO GRANDE LNG, LLC,
as the Borrower

By: /s/ Brent Wahl
Name: Brent Wahl
Title: Chief Financial Officer

[Signature Page to Amendment No. 1 to TCF Credit Agreement]

MUFG BANK LTD.,
as the TCF Administrative Agent

By: /s/ Lawrence Blat
Name: Lawrence Blat
Title: Authorized Signatory

MIZUHO BANK (USA),
as the P1 Collateral Agent

By: /s/ Dominick D'Ascoli
Name: Dominick D'Ascoli
Title: Director

MUFG BANK, LTD.,
as a Senior Lender

By: /s/ Saad Iqbal
Name: Saad Iqbal
Title: Managing Director

TOTALENERGIES HOLDINGS SAS,
as Total Holdings

By: /s/ Jean-Pierre Sbraire
Name: Jean-Pierre Sbraire
Title: President

EXHIBIT A

Conformed Copy of Amended TCF Credit Agreement

[Attached]

|US-DOCS\145399031.8||

Conformed to include:
Amendment No. 1, dated as of November 1, 2023

CREDIT AGREEMENT
dated as of July 12, 2023

among

RIO GRANDE LNG, LLC,
as the Borrower,

TOTALENERGIES HOLDINGS SAS,
as Total Holdings

MUFG BANK, LTD.,
as the TCF Administrative Agent,

MIZUHO BANK (USA),
as the P1 Collateral Agent, and

THE SENIOR LENDERS PARTY TO THIS AGREEMENT FROM TIME TO TIME

and for the benefit of

MUFG BANK, LTD.,
as the Coordinating Lead Arranger, the Bookrunner and the Syndication Agent

TABLE OF CONTENTS

	Page
1. DEFINITIONS AND INTERPRETATION	2
1.1. Defined Terms	2
1.2. Principles of Interpretation	2
1.3. UCC Terms	3
1.4. Accounting and Financial Determinations	4
1.5. Definitions Agreement	4
1.6. Divisions	4
1.7. Rates	4
2. LOAN COMMITMENTS AND BORROWING	5
2.1. Construction/Term Loan Commitments	5
2.2. Notice of Construction/Term Loan Borrowings	6
2.3. Borrowing of Construction/Term Loans	7
2.4. Termination, Reduction, and Reallocation of Construction/Term Loan Commitments	8
2.5. Notice of Term Conversion	9
2.6. [Reserved]	9
2.7. [Reserved]	9
2.8. [Reserved]	9
2.9. [Reserved]	9
2.10. Borrowings of Construction/Term Loans	9
2.11. Extensions of Construction/Term Loans	12
3. [RESERVED]	14
4. REPAYMENTS, PREPAYMENTS, INTEREST AND FEES	14
4.1. Repayment of Construction/Term Loan Borrowings	14
4.2. [Reserved]	14
4.3. Interest Payment Dates	14
4.4. Interest Rates	15
4.5. Conversion Options	16
4.6. Post-Maturity Interest Rates; Default Interest Rates	17
4.7. Interest Rate Determination	17
4.8. Computation of Interest and Fees	17
4.9. Optional Prepayment	18
4.10. Mandatory Prepayment	20
4.11. Time and Place of Payments	23
4.12. Borrowings and Payments Generally	24
4.13. Fees	25
4.14. Pro Rata Treatment	25

4.15.	Sharing of Payments	26
4.16.	Defaulting Lender Waterfall	27
4.17.	Defaulting Lender Cure	27
4.18.	Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Collateral Proceeds	28
4.19.	Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Replacement Debt	28
4.20.	Termination of Senior Secured IR Hedge Transactions in Connection with Voluntary Payments	29
5.	SOFR, BENCHMARK, AND TAX PROVISIONS	29
5.1.	Illegality	29
5.2.	Inability to Determine Rates	30
5.3.	Increased Costs	31
5.4.	Obligation to Mitigate; Replacement of Lenders	32
5.5.	Funding Losses	34
5.6.	Taxes	34
5.7.	Benchmark Replacement Setting	39
6.	REPRESENTATIONS AND WARRANTIES	40
6.1.	General	40
6.2.	Existence	41
6.3.	Financial Condition	41
6.4.	Action	41
6.5.	No Breach	42
6.6.	Government Approvals; Government Rules	43
6.7.	Proceedings	44
6.8.	Environmental Matters	44
6.9.	Taxes	46
6.10.	Tax Status	46
6.11.	ERISA; ERISA Event	46
6.12.	Nature of Business	47
6.13.	Senior Security Documents	47
6.14.	Subsidiaries	47
6.15.	Investment Company Act of 1940	47
6.16.	Energy Regulatory Status	47
6.17.	Material Project Documents; Other Documents	48
6.18.	Regulations T, U and X	49
6.19.	Patents, Trademarks, Etc.	49
6.20.	Disclosure	49
6.21.	Absence of Default	50
6.22.	Real Property	50

6.23.	Solvency	50
6.24.	Legal Name and Place of Business	50
6.25.	No Force Majeure	51
6.26.	Ranking	51
6.27.	Labor Matters	51
6.28.	Anti-Corruption Laws, Anti-Terrorism, and Money Laundering Laws	51
6.29.	Sanctions	52
6.30.	Accounts	52
6.31.	No Condemnation	52
6.32.	Project Development	52
6.33.	Insurance	54
7.	CONDITIONS PRECEDENT	54
7.1.	Conditions to Closing Date and Initial Construction/Term Loan Borrowing	54
7.2.	Conditions to Construction/Term Loans	62
7.3.	[Reserved]	64
7.4.	[Reserved]	64
7.5.	Conditions to Term Conversion Date Drawing	64
7.6.	Conditions to Term Conversion Date	64
8.	AFFIRMATIVE COVENANTS	67
8.1.	Maintenance of Existence, Etc.	67
8.2.	RG Facility Entities	68
8.3.	Taxes	68
8.4.	Compliance with Material Project Documents, Etc.	68
8.5.	Maintenance of Credit Agreement Designated Offtake Agreements; LNG Sales Mandatory Prepayment	70
8.6.	Compliance with Material Government Approvals, Etc.	73
8.7.	Compliance with Government Rules, Etc.	73
8.8.	Tax Status	74
8.9.	Project Construction	74
8.10.	Shipping and Sub-charter Arrangements	74
8.11.	Interest Rate Hedging	76
8.12.	Access; Inspection	76
8.13.	Survey	76
8.14.	Allocation of Prepayment of Replacement Debt and Supplemental Debt	76
8.15.	Appointment of Delegates	77
8.16.	Certain Matters in Respect of the P1 Accounts	77
8.17.	Flood Insurance	77
8.18.	Post-Closing Deliverables	79
8.19.	Intellectual Property	79
9.	NEGATIVE COVENANTS	79

9.1.	Nature of Business	80
9.2.	Fundamental Changes	80
9.3.	Asset Sales	80
9.4.	Restrictions on Indebtedness	81
9.5.	Interest Rate Hedging Agreements	84
9.6.	Transactions with Affiliates	85
9.7.	Involuntary Liens of RG Facility Entities	85
9.8.	Energy Regulatory	85
9.9.	Use of Proceeds	86
9.10.	Distributions	86
9.11.	[Reserved]	87
9.12.	RG Facility Entity Voting	87
9.13.	Material Project Documents	89
9.14.	Offtake Agreements	94
9.15.	Capital Improvements	94
9.16.	Material Government Approvals	95
9.17.	Performance Tests	95
9.18.	Historical DSCR	95
9.19.	Accounts	95
9.20.	GAAP	96
9.21.	Margin Stock	96
9.22.	Sanctions	96
10.	REPORTING COVENANTS	96
10.1.	Financial Statements	96
10.2.	Notice of Defaults, Events of Default and Other Events	98
10.3.	Notices under Material Project Documents	99
10.4.	Construction Period Reports	100
10.5.	Operating Period Reports	100
10.6.	Other Documents and Information	100
10.7.	Annual Budgets and Plans	101
10.8.	DSCR Certificates	101
10.9.	Additional Material Project Documents	102
10.10.	Environmental and Social Reporting	102
10.11.	Insurance Reporting	103
10.12.	Gas Supply Reporting	104
10.13.	Other Information	104
11.	EVENTS OF DEFAULT	104
11.1.	Non-Payment of Senior Secured Obligations	104
11.2.	Cross-Acceleration	105
11.3.	Breaches of Covenant	105

11.4.	Breach of Representation or Warranty	106
11.5.	Bankruptcy	107
11.6.	Litigation	107
11.7.	Illegality or Unenforceability	107
11.8.	Abandonment	107
11.9.	Insurance	107
11.10.	Material Government Approvals	108
11.11.	Project Environmental Default	108
11.12.	Material Project Document Defaults	108
11.13.	Event of Loss	109
11.14.	Change of Control	110
11.15.	ERISA Events	110
11.16.	Liens	110
11.17.	Term Conversion; Etc.	110
12.	REMEDIES	110
12.1.	Acceleration Upon Bankruptcy	110
12.2.	Acceleration Upon Other Event of Default	111
12.3.	Action Upon Event of Default	111
12.4.	Application of Proceeds	112
13.	THE TCF ADMINISTRATIVE AGENT	113
13.1.	Appointment and Authority	113
13.2.	Rights as a Senior Lender	113
13.3.	Exculpatory Provisions	114
13.4.	Reliance by TCF Administrative Agent	115
13.5.	Delegation of Duties	115
13.6.	Request for Indemnification by the Senior Lenders	116
13.7.	Resignation or Removal of TCF Administrative Agent	116
13.8.	No Amendment to Duties of TCF Administrative Agent Without Consent	117
13.9.	Non-Reliance on TCF Administrative Agent and Senior Lenders	117
13.10.	Coordinating Lead Arranger, Bookrunner, Syndication Agent Duties	118
13.11.	Copies	118
13.12.	Erroneous Payments.	118
14.	MISCELLANEOUS PROVISIONS	122
14.1.	Amendments, Etc.	122
14.2.	Entire Agreement	124
14.3.	Governing Law; Jurisdiction; Etc.	125
14.4.	Assignments	126
14.5.	Benefits of Agreement	133
14.6.	Costs and Expenses	133
14.7.	Counterparts; Effectiveness	134

14.8.	Indemnification	135
14.9.	Interest Rate Limitation	138
14.10.	No Waiver; Cumulative Remedies	138
14.11.	Notices and Other Communications.	138
14.12.	Patriot Act Notice	140
14.13.	Payments Set Aside	141
14.14.	Right of Setoff	141
14.15.	Severability	142
14.16.	Survival	142
14.17.	Treatment of Certain Information; Confidentiality	142
14.18.	Waiver of Consequential Damages, Etc.	144
14.19.	Waiver of Litigation Payments	144
14.20.	Reinstatement	145
14.21.	No Recourse	145
14.22.	P1 Intercreditor Agreement	145
14.23.	Termination	146
14.24.	Consultants	146
14.25.	No Fiduciary Duty	146
14.26.	Acknowledgement and Consent to Bail-In of Affected Financial Institutions.	146
14.27.	Cashless Settlement.	147
14.28.	Restricted Lenders	147
14.29.	Disclosure in Connection with Equator Principles.	147
14.30.	Total Holdings.	147

APPENDICES

Appendix I	-	Definitions

SCHEDULES

Schedule 2	-	Lenders, Commitments
Schedule 4.1(a)	-	Amortization Schedule
Schedule 6.6(b)	-	Government Approvals – Final and Non-Appealable
Schedule 6.6(c)	-	Government Approvals – Final (Subject to Open Judicial Appeal Period)
Schedule 6.6(e)	-	Government Approvals – Post Closing
Schedule 6.7	-	Proceedings
Schedule 6.8	-	Environmental Matters
Schedule 6.17	-	Material Project Documents
Schedule 7.1(b)(iii)	-	Consent Agreements
Schedule 7.1(c)(vii)	-	Material Project Party Opinions
Schedule 8.16(c)	-	Application of Loss Proceeds
Schedule 8.18	-	Post-Closing Deliverables
Schedule 9.13(d)	-	Change Orders
Schedule 14.4(j)	-	Disqualified Institutions
Schedule 14.11	-	Notice Information

EXHIBITS

Exhibit A	-	Form of Construction/Term Loan Note
Exhibit B	-	[Reserved]
Exhibit C	-	[Reserved]
Exhibit D-1	-	Form of Borrowing Notice
Exhibit D-2	-	[Reserved]
Exhibit E	-	[Reserved]
Exhibit F-1	-	Form of Lender Assignment Agreement
Exhibit F-2	-	Form of Affiliated Lender Assignment Agreement
Exhibit G	-	Form of Notice of Term Conversion
Exhibit H-1	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Lenders that are not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-2	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Participants that are not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-3	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Participants that are Partnerships for U.S. Federal Income Tax Purposes)
Exhibit H-4	-	Form of U.S. Tax Compliance Certificate (For Non-U.S. Lenders that are Partnerships for U.S. Federal Income Tax Purposes)
Exhibit I	-	Form of Insurance Advisor Closing Date Certificate
Exhibit J	-	Form of Independent Engineer Advance Certificate
Exhibit K	-	Form of Borrower Advance Certificate
Exhibit L	-	Form of Independent Engineer Term Conversion Certificate
Exhibit M	-	Form of Borrower Term Conversion Certificate
Exhibit N	-	Form of Insurance Advisor Term Conversion Certificate
Exhibit O-1	-	Construction Budget
Exhibit O-2	-	Construction Schedule
Exhibit P-1	-	Pre-Completion Distribution Release Test and Lenders' Reliability Test
Exhibit P-2	-	Pre-Completion Distribution Release Test Certificates
Exhibit P-3	-	LRT Certificates
Exhibit Q	-	Dutch Auction Procedures

This **CREDIT AGREEMENT** (this “**Agreement**”), dated as of July 12, 2023, is by and among:

- (1) **RIO GRANDE LNG, LLC**, a Texas limited liability company (the “**Borrower**”);
- (2) **TOTALENERGIES HOLDINGS**, a société par actions simplifiée (a simplified joint stock company) organized under the laws of France, (“**Total Holdings**”);
- (3) **MUFG BANK, LTD.**, as the TCF Administrative Agent;
- (4) **MIZUHO BANK (USA)**, as the P1 Collateral Agent; and
- (5) each of the Senior Lenders from time to time party hereto;

each a “**Party**” and together the “**Parties**”;

and for the benefit of **MUFG BANK, LTD.**, as the Coordinating Lead Arranger, the Bookrunner and the Syndication Agent.

WHEREAS:

- (A) the Borrower intends, among other things, (i) to own, upon the design, engineering, development, procurement, construction, installation thereof, the P1 Train Facilities, (ii) to own indirectly, upon the design, engineering, development, procurement, construction, installation thereof, certain Common Facilities at the Rio Grande Facility, (iii) to acquire directly (in respect of the P1 Train Facilities) or indirectly (in respect of the Common Facilities) subleases and easements in the land underlying and appurtenant to the Rio Grande Facility, (iv) acquire rights of usage over and in the Rio Grande Facility, (v) to cause the design, engineering, development, procurement, construction, installation, and insurance of the P1 Train Facilities and such Common Facilities, and (vi) to cause the operation and maintenance of the Rio Grande Facility, in each case and as relevant, subject to the CFAA and other Material Project Documents;
- (B) the Borrower has or will incur Senior Secured Debt to fund, *inter alia*, the design, engineering, development, procurement, construction, installation, testing, completion, ownership, operation, and maintenance of the Project;
- (C) the Borrower has requested that the Senior Lenders establish a credit facility, pursuant to which the Senior Lenders will make available and provide, upon the terms and conditions set forth herein, the Construction/Term Loans described herein to partially finance such design, engineering, development, procurement, construction, installation, testing, completion, ownership, operation, and maintenance of the Project, to pay certain fees and expenses associated with this Agreement and the loans made hereunder, as further described herein;
- (D) the Borrower has granted certain security in the Collateral for the benefit of the Senior Secured Parties pursuant to the P1 Collateral Documents; and
- (E) the Senior Lenders are willing to make the credit facilities described herein available upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Defined Terms

Unless otherwise defined herein in Appendix I, capitalized terms used herein shall have the meanings provided in the Common Terms Agreement.

1.2. Principles of Interpretation

- (a) In this Agreement, except to the extent specified to the contrary or where the context otherwise requires:
- (i) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement;
 - (ii) references to **“Articles”**, **“Sections”**, **“Schedules”**, **“Exhibits”**, and **“Appendices”** are references to sections of, and schedules, exhibits and appendices to, this Agreement;
 - (iii) references to **“assets”** includes property, revenues, and rights of every description (whether real, personal, or mixed and whether tangible or intangible);
 - (iv) references to an **“amendment”** includes a supplement, replacement, novation, restatement, or re-enactment and **“amended”** is to be construed accordingly;
 - (v) references to any Government Rule includes any amendment or modification to such Government Rule, and all regulations, rulings, and other Government Rules promulgated under such Government Rule;
 - (vi) subject to Section 1.5, except where a document or agreement is expressly stated to be in the form “in effect” on a particular date, references to any document or agreement, including this Agreement, shall be deemed to include references to such document or agreement as amended, from time to time in accordance with its terms and (where applicable) subject to compliance with the requirements set forth in herein;
 - (vii) references to any Party or party to any other document or agreement shall include its successors and permitted assigns;
 - (viii) words importing the singular include the plural and vice versa;
 - (ix) words importing the masculine include the feminine and vice versa;
 - (x) the words **“include”**, **“includes”**, and **“including”** are not limiting;

- (xi) references to “**days**” shall mean calendar days, unless the term “Business Days” shall be used;
 - (xii) references to “**months**” shall mean calendar months and references to “**years**” shall mean calendar years;
 - (xiii) unless the contrary indication appears, a reference to a time of day is a reference to the time of day in New York, New York; and
 - (xiv) if any term is defined both in the Common Terms Agreement and in this Agreement, the definition in this Agreement shall prevail.
- (b) This Agreement is the result of negotiations among, and has been reviewed by all parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties hereto, and no ambiguity shall be construed in favor of or against any party hereto.
- (c) Unless a contrary intention appears, a term used in any notice given under or in connection herewith has the same meaning as in this Agreement.
- (d) If any term is defined herein and has a different definition in any other TCF Financing Document, then such term shall have the definition set forth herein until the Credit Agreement Discharge Date for purposes of this Agreement and all other TCF Financing Documents (it being understood that the term herein shall benefit solely the parties hereto and shall not benefit the Senior Secured Parties to any other TCF Financing Document). For the avoidance of any doubt, if this Section 1.2(d) applies, the compliance by the Borrower with the provisions of all other TCF Financing Documents shall be determined using the defined term set forth herein and not in such other TCF Financing Documents and the Borrower shall not be permitted to take any action or permit any circumstance to subsist if such action or circumstance would not be permitted by any other TCF Financing Document, as interpreted using the defined term set forth herein. For the further avoidance of any doubt, if this Section 1.2(d) applies and any CTA Default or CTA Event of Default would occur as a result of the application of this Section 1.2(d) but would not otherwise occur under the Common Terms Agreement, then a Default or Event of Default will occur hereunder but shall not occur under the Common Terms Agreement and any waiver or consent required in respect thereof shall be sought and granted or withheld in accordance herewith and not in accordance with the Common Terms Agreement or any other TCF Financing Document. This Section 1.2(d) shall cease to apply on the Credit Agreement Discharge Date.

1.3. UCC Terms

Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the respective meanings given to those terms in the UCC.

1.4. Accounting and Financial Determinations

Notwithstanding Section 1.4 (*Accounting and Financial Determinations*) of the Common Terms Agreement, except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any TCF Financing Document, then such ratio or requirement shall be modified in a manner determined as soon as reasonably practicable and in good faith by the Borrower and set forth in a written notice to the TCF Administrative Agent that preserves the original intent thereof in light of such change in GAAP; provided, that (a) such modification shall not take effect until agreed to by the TCF Administrative Agent, (b) until so modified, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the TCF Administrative Agent financial statements and other documents required under this Agreement setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP, and (c) upon the agreement between the TCF Administrative Agent and the Borrower as to such modification, this Agreement shall be deemed amended to the extent necessary to give effect to such modification without the consent of any Party hereto.

1.5. Definitions Agreement

Terms defined herein or in any other TCF Financing Document with reference to the Definitions Agreement shall be defined with reference to the Definitions Agreement as in effect on the date hereof; provided, that, if the Definitions Agreement is amended upon approval in accordance with Section 14.1 hereof or as otherwise permitted hereunder, then such terms shall be defined with reference to the Definitions Agreement as in effect on the date of such amendment.

1.6. Divisions

For all purposes under the TCF Financing Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws) (a) if any asset, right, obligation, or liability of any Person becomes the asset, right, obligation, or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

1.7. Rates

The TCF Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to Base Rate, the Benchmark, any component definition thereof or rates referred to in the definition thereof or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will

be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Benchmark or any other Benchmark prior to its discontinuance or unavailability or (b) the effect, implementation or composition of any Conforming Changes. The TCF Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of Base Rate, the Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The TCF Administrative Agent may select information sources or services in its reasonable discretion to ascertain Base Rate or the Benchmark, or any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Senior Lender, or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service

2. LOAN COMMITMENTS AND BORROWING

2.1. Construction/Term Loan Commitments

- (a) Subject to the terms and conditions set forth herein, each Senior Lender, severally and not jointly, shall make Construction/Term Loans to the Borrower from time to time during the Construction/Term Loan Availability Period in an aggregate outstanding principal amount not in excess of such Senior Lender's Construction/Term Loan Commitment.
- (b) After giving effect to the making of any Construction/Term Loans, the aggregate outstanding principal amount of all Construction/Term Loans shall not exceed the Aggregate Construction/Term Loan Commitment.
- (c) Each Construction/Term Loan Borrowing shall be in an amount specified in a Borrowing Notice delivered pursuant to Section 2.2.
- (d) Proceeds of the Construction/Term Loans (other than amounts netted from the proceeds of the Construction/Term Loans and applied directly to the payment of any interest, fees, costs, expenses, or other amounts required to be paid pursuant to Section 5.5, in each such case that are due and payable to the Credit Agreement Senior Secured Parties hereunder or pursuant to any TCF Financing Document) shall be deposited into the P1 Construction Account solely to fund, subject to the terms and conditions set forth herein:
 - (i) P1 Project Costs to the extent permitted pursuant to Section 3.1 (~~P1~~ *Construction Account*) of the P1 Accounts Agreement; and
 - (ii) on the Term Conversion Date, a Construction/Term Loan Borrowing up to the lower of (A) the amount required to cause the ratio of (1) outstanding principal amounts of borrowed Indebtedness (excluding Permitted Subordinated Debt) including the aggregate amount of the proceeds of the Construction/Term Loans made on or prior to such date to (2) the

Aggregate Funded Equity to not exceed 75:25 after giving pro forma effect to any Extraordinary Distribution to be made on the Term Conversion Date and (B) the aggregate remaining Aggregate Construction/Term Loan Commitment (the "**Term Conversion Date Drawing**").

- (e) Construction/Term Loans repaid or prepaid may not be reborrowed.
- (f) The Construction/Term Loans shall be divided among two tranches: (i) "Tranche A" in an amount equal to \$250,000,000 ("**Tranche A**") and (ii) "Tranche B" in an amount equal to \$550,000,000 ("**Tranche B**"), in each case as set forth in Schedule 2.
- (g) Disbursements under the Construction/Term Loan Commitment shall be made in the following order:
 - (i) *first*, under Tranche A until all Tranche A commitments are fully utilized; and
 - (ii) *second*, under Tranche B until all Tranche B commitments are fully utilized.
- (h) Notwithstanding the tranching of the Construction/Term Loans into Tranche A and Tranche B, except as otherwise expressly set forth herein, all such tranches of Construction/Term Loans and all commitments with respect to Construction/Term Loans shall rank *pari passu* with each other and have identical terms and conditions to each other (including, with respect to outstanding Construction/Term Loans, rights to payment of principal, interest, fees, or other obligations under the Construction/Term Loan or any other TCF Financing Document, rights to exercise remedies, rights to share in Collateral securing the Construction/Term Loans, and rights to give or withhold any approval, consent, authorization, or vote required or permitted to be given by or on behalf of any Senior Lender under the Construction/Term Loan or any other TCF Financing Document), excepting only the order in which Construction/Term Loans under each such tranche are funded.

2.2. Notice of Construction/Term Loan Borrowings

- (a) From time to time, but no more frequently than twice per calendar month (except as required for the payment of interest or Commitment Fees during the Construction/Term Loan Availability Period, and for any draw of remaining Construction/Term Loan Commitments on the last day of the Construction/Term Loan Availability Period), subject to the limitations set forth in Section 2.1, the Borrower may request a Construction/Term Loan Borrowing by delivering to the TCF Administrative Agent and the P1 Collateral Agent a properly completed Borrowing Notice not later than 11:00 a.m., New York City time, on or before the fifth U.S. Government Securities Business Day prior to the proposed Borrowing Date; provided, that the notice periods set forth in this clause (a) shall not apply with respect to the Borrowing Notice for the Construction/Term Loan Borrowing on the Closing Date, which Borrowing Notice may be delivered no later than 1:00 p.m. on the Business Day before the Closing Date.

- (b) Each Borrowing Notice delivered pursuant to this Section 2.2 shall refer to this Agreement and specify:
 - (i) the amount of such requested Construction/Term Loan Borrowing;
 - (ii) the requested date of the Construction/Term Loan Borrowing (which shall be a Business Day);
 - (iii) whether the requested Construction/Term Loan Borrowing is of SOFR Loans or Base Rate Loans; and
 - (iv) that each of the conditions precedent to such Construction/Term Loan Borrowing has been satisfied or waived as required hereunder.
- (c) The currency specified in a Borrowing Notice must be Dollars.
- (d) The amount of the proposed Construction/Term Loan Borrowing must be an amount that is no more than the undisbursed Aggregate Construction/Term Loan Commitment and (i) not less than \$10,000,000 and an integral multiple of \$1,000,000 or (ii) if the undisbursed Aggregate Construction/Term Loan Commitment is less than \$10,000,000, equal to the undisbursed Aggregate Construction/Term Loan Commitment.
- (e) The TCF Administrative Agent shall promptly (and in any event on the same Business Day, or, if such Borrowing Notice is delivered to the TCF Administrative Agent later than 1:00 p.m., New York City time, on the following Business Day) notify each Senior Lender of any Borrowing Notice delivered pursuant to this Section 2.2, together with each such Senior Lender's share of the requested Construction/Term Loan Borrowing (based on such Senior Lender's Construction/Term Loan Tranche Percentage).
- (f) If no election as to whether the requested Construction/Term Loan Borrowing is of SOFR Loans or Base Rate Loans, then the requested Construction/Term Loan Borrowing shall be Base Rate Loans.

2.3. Borrowing of Construction/Term Loans

Subject to Section 2.1 and Section 2.10, on the proposed Borrowing Date of each Construction/Term Loan Borrowing, each Senior Lender shall make a Construction/Term Loan in the amount of its Construction/Term Loan Commitment Percentage(s) of such Construction/Term Loan Borrowing by wire transfer of immediately available funds to the TCF Administrative Agent, not later than 1:00 p.m., New York City time, and the TCF Administrative Agent shall deposit the amounts so received as set forth in Section 2.1(d); provided, that if a Construction/Term Loan Borrowing does not occur on the proposed Borrowing Date because any condition precedent to such requested Construction/Term Loan Borrowing herein specified has not been met, the TCF Administrative Agent shall return the amounts so received to each Senior Lender without interest as soon as possible.

2.4. Termination, Reduction, and Reallocation of Construction/Term Loan Commitments

- (a) All unused Construction/Term Loan Commitments, if any, shall be automatically and permanently terminated on the last day of the Construction/Term Loan Availability Period.
- (b) The Borrower may, upon at least three Business Days' notice to the TCF Administrative Agent (which shall promptly notify the Senior Lenders), terminate in whole or reduce ratably in part portions of the Construction/Term Loan Commitments; provided, that any such partial reduction shall be in the aggregate amount of \$10,000,000 or an integral multiple of \$500,000 in excess thereof; provided, further, that any such cancellation prior to the Project Completion Date shall only be permitted if the funds under the cancelled Construction/Term Loan Commitments are not reasonably expected to be necessary to achieve the Project Completion Date by the Date Certain (as confirmed by the TCF Administrative Agent in consultation with the Independent Engineer); provided, further, that a notice of termination or reduction may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the TCF Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. ~~The Borrower shall specify in any reduction notice delivered pursuant to this Section 2.4(b) the specific sub-commitments that are being reduced.~~
- (c) From and after April 1, 2025, upon the incurrence of any Replacement Debt, the Construction/Term Loan Commitments shall be reduced on a *pro rata* basis between the outstanding Construction/Term Loan Commitments hereunder and the outstanding "Construction/Term Loan Commitments" under and as defined in the CD Credit Agreement by an amount equal to (i) the commitment amount of such Replacement Debt *minus* (ii) the amounts set forth in Section 2.4(b)(i)(B)-(E E) (*Replacement Debt*) of the Common Terms Agreement. **The Borrower shall provide notice (each a "Replacement Debt Commitment Reduction Notice") to the TCF Administrative Agent of any anticipated reduction in commitments pursuant to this Section 2.4(c) by no later than 1:00 pm on the second Business Day prior to the date of such anticipated reduction in commitments, which notice the TCF Administrative Agent shall promptly forward to each Senior Lender on the same day that it is received from the Borrower; provided, that such notice of termination or reduction by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the TCF Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Each Specified Senior Lender may, by notice to the TCF Administrative Agent in writing or by telephone (confirmed in writing) no later than 5:00 pm one Business Day after receipt of a Replacement Debt Commitment Reduction Notice elect to decline all (but not less than all) of such reduction in Construction/Term Loan Commitments pursuant to this Section 2.4(c) (the amount of such declined Construction/Term Loan Commitment reductions hereinafter referred to as the "Declined Replacement Debt Commitments"). The aggregate amount of Declined Replacement Debt Commitments shall be**

allocated to the Non-Declining Senior Lenders on a pro rata basis in accordance with the aggregate amount of their respective unfunded Construction/Term Loan Commitments; provided, that, if the amount of Declined Replacement Debt Commitments exceeds the aggregate amount of unfunded Construction/Term Loan Commitments held by the Non-Declining Senior Lenders (such excess amounts (if any), the "Excess Replacement Debt Commitments"), the Excess Replacement Debt Commitments shall be allocated to the Specified Senior Lenders that have declined Replacement Debt on a pro rata basis in accordance with the aggregate amount of their respective unfunded Construction/Term Loan Commitments. For purposes of this Section 2.4(c), Replacement Debt shall be deemed "incurred" upon the execution of the Senior Secured Debt Instruments in respect thereof (irrespective of the satisfaction or waiver of the conditions precedent thereunder to the initial disbursement thereof or initial issuance of letters of credit thereunder).

- (d) All unused Construction/Term Loan Commitments, if any, shall be terminated upon the occurrence of an Event of Default if required pursuant to Section 12.1 or Section 12.2 in accordance with the terms thereof.
- (e) Any termination or reduction of the Construction/Term Loan Commitments pursuant to this Section 2.4 shall be permanent. Other than as expressly provided in Section 2.4(c), each reduction of the Construction/Term Loan Commitments shall be made ratably among the Senior Lenders in accordance with their Construction/Term Loan Commitment Percentage and ratably among all Tranches.

2.5. Notice of Term Conversion

The Borrower shall deliver to the TCF Administrative Agent and the P1 Collateral Agent a properly completed Notice of Term Conversion, no later than 1:00 p.m., New York City time, on or before the fifth Business Day prior to the proposed Term Conversion Date; provided, that the Borrower may not provide a Notice of Term Conversion more than thirty Business Days prior to the proposed Term Conversion Date.

2.6. [Reserved]

2.7. [Reserved]

2.8. [Reserved]

2.9. [Reserved]

2.10. Borrowings of Construction/Term Loans

- (a) Subject to Section 5.4, each Senior Lender may (without relieving the Borrower of its obligation to repay a Construction/Term Loan in accordance with the terms of this Agreement and the Construction/Term Loan Notes) at its option fulfill its Construction/Term Loan Commitments with respect to any such Construction/

Term Loan by causing any domestic or foreign branch or Affiliate of such Senior Lender to make such Construction/Term Loan.

- (b) Unless the TCF Administrative Agent has been notified in writing by any Senior Lender prior to a proposed Borrowing Date that such Senior Lender will not make available to the TCF Administrative Agent its portion of the Construction/Term Loan Borrowing proposed to be made on such date, the TCF Administrative Agent may assume that such Senior Lender has made such amounts available to the TCF Administrative Agent on such date and the TCF Administrative Agent in its sole discretion may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the TCF Administrative Agent by such Senior Lender and the TCF Administrative Agent has made such amount available to the Borrower, the TCF Administrative Agent shall be entitled to recover on demand from such Senior Lender such corresponding amount plus interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the TCF Administrative Agent to the Borrower to the date such corresponding amount is recovered by the TCF Administrative Agent at an interest rate *per annum* equal to the Federal Funds Effective Rate. If such Senior Lender pays such corresponding amount (together with such interest), then such corresponding amount so paid shall constitute such Senior Lender's Construction/Term Loan included in such Construction/Term Loan Borrowing. If such Senior Lender does not pay such corresponding amount forthwith upon the TCF Administrative Agent's demand, the TCF Administrative Agent shall promptly notify the Borrower and the Borrower shall promptly repay such corresponding amount to the TCF Administrative Agent plus interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the TCF Administrative Agent to the Borrower to the date such corresponding amount is recovered by the TCF Administrative Agent at an interest rate *per annum* equal to the Base Rate plus the Applicable Margin. If the TCF Administrative Agent receives payment of the corresponding amount from each of the Borrower and such Senior Lender, the TCF Administrative Agent shall promptly remit to the Borrower such corresponding amount. If the TCF Administrative Agent receives payment of interest on such corresponding amount from each of the Borrower and such Senior Lender for an overlapping period, the TCF Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. Nothing herein shall be deemed to relieve any Senior Lender from its obligation to fulfill its Construction/Term Loan Commitments hereunder and any payment by the Borrower pursuant to this Section 2.10(b) shall be without prejudice to any claim the Borrower may have against a Senior Lender that shall have failed to make such payment to the TCF Administrative Agent. The failure of any Senior Lender to make available to the TCF Administrative Agent its portion of the Construction/Term Loan Borrowing shall not relieve any other Senior Lender of its obligations, if any, hereunder to make available to the TCF Administrative Agent its portion of the Construction/Term Loan Borrowing on the date of such Construction/Term Loan Borrowing, but no Senior Lender shall be responsible for the failure of any other Senior Lender to make available to the TCF Administrative Agent such other Senior Lender's portion of the Construction/Term Loan Borrowing on the date of any Construction/Term Loan Borrowing. A notice of the TCF Administrative

Agent to any Senior Lender or the Borrower with respect to any amounts owing under this Section 2.10(b) shall be conclusive, absent manifest error.

- (c) Each of the Senior Lenders shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Senior Lender resulting from each Construction/Term Loan made by such Senior Lender, including the amounts of principal and interest payable and paid to such Senior Lender from time to time hereunder.
- (d) The TCF Administrative Agent shall maintain at the TCF Administrative Agent's office (i) a copy of any Lender Assignment Agreement or Affiliated Lender Assignment Agreement delivered to it pursuant to Section 14.4 and (ii) a register for the recordation of the names and addresses of the Senior Lenders, and all the Construction/Term Loan Commitments of, and principal amount of and interest on the Construction/Term Loans owing and paid to, each Senior Lender pursuant to the terms hereof from time to time and of amounts received by the TCF Administrative Agent from the Borrower and whether such amounts constitute principal, interest, fees, or other amounts and each Senior Lender's share thereof (the "**Register**"). The Register shall be available for inspection by the Borrower, any Senior Lender at any reasonable time and from time to time upon reasonable prior notice.
- (e) The entries made by the TCF Administrative Agent in the Register or the accounts maintained by any Senior Lender shall be conclusive and binding evidence, absent manifest error, of the existence and amounts of the obligations recorded therein; provided, that the failure of any Senior Lender or the TCF Administrative Agent to maintain such Register or accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Construction/Term Loans in accordance with the terms of this Agreement. In the event of any conflict between the accounts and records maintained by any Senior Lender and the accounts and records of the TCF Administrative Agent in respect of such matters, the accounts and records of the TCF Administrative Agent shall control in the absence of manifest error.
- (f) The Borrower agrees that in addition to such accounts or records described in Section 2.10(d) and Section 2.10(e), the Construction/Term Loans made by each Senior Lender shall, upon the request of any Senior Lender, be evidenced by one or more Construction/Term Loan Notes duly executed on behalf of the Borrower and shall be dated the Closing Date (or, if later, the date of any request therefor by a Senior Lender). Each such Construction/Term Loan Note shall have all blanks appropriately filled in, and shall be payable to such Senior Lender and its registered assigns in a principal amount equal to the Construction/Term Loan Commitment of such Senior Lender (it being understood that the principal amount of the Construction/Term Loan Commitment of each Senior Lender shall be allocated amongst its Construction/Term Loan Notes such that the aggregate principal amount of such Construction/Term Loan Notes equals such Senior Lender's Construction/Term Loan Commitment); provided, that each Senior Lender may attach schedules to its respective Construction/Term Loan Notes and endorse thereon the date, amount, and maturity of its respective Construction/Term Loans and payments with respect thereto.

2.11. Extensions of Construction/Term Loans

- (a) The Borrower may at any time and from time to time after the Closing Date, but only with the written consent of Total Holdings, request that all or a portion of the Construction/Term Loans outstanding at the time of such request (any such Construction/Term Loans, “**Existing Construction/Term Loans**”) be converted to extend the scheduled final maturity date of any payment of principal with respect to all or a portion of any principal amount of such Construction/Term Loans (any such Construction/Term Loans which have been so converted, “**Extended Construction/Term Loans**”) and to provide for other terms consistent with this Section 2.11. Prior to entering into any Extension Amendment (as defined below) with respect to any Extended Construction/Term Loans, the Borrower shall provide written notice to the P1 Intercreditor Agent and the TCF Administrative Agent (who shall provide a copy of such notice to each of the Senior Lenders of the Existing Construction/Term Loans and which such request shall be offered equally to all such Senior Lenders) (an “**Construction/Term Loan Extension Request**”) setting forth the proposed terms of the Extended Construction/Term Loans to be established, which terms shall be identical to the Existing Construction/Term Loans, except that (i) the Extended Construction/Term Loans may constitute a separate class of Construction/Term Loans than the Existing Construction/Term Loans and may have distinct voting rights with respect to such class, (ii) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments of all or a portion of any principal amount of such Extended Construction/Term Loans may be delayed to later dates than the scheduled amortization of principal of the Existing Construction/Term Loans (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in Section 4.1 with respect to the Existing Construction/Term Loans from which such Extended Construction/Term Loans were extended, in each case as more particularly set forth in Section 2.11(c) below) (provided, that, for the avoidance of doubt, the weighted average life to maturity of such Extended Construction/Term Loans shall be no shorter than the weighted average life to maturity of the Existing Construction/Term Loans), (iii) (A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts, and premiums with respect to the Extended Construction/Term Loans may be different than those for the Existing Construction/Term Loans and/or (B) additional fees and/or premiums may be payable to the Senior Lenders providing such Extended Construction/Term Loans in addition to or in lieu of any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment, and (iv) (A) the Extended Construction/Term Loans may have call protection and prepayment premiums related to optional prepayment terms as may be agreed between the Borrower and the Extending Senior Lenders thereof and (B) the Extended Construction/Term Loans may participate with the Existing Construction/Term Loans on a *pro rata* basis or a less than *pro rata* basis (but not greater than a *pro rata* basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as may be agreed between the Borrower and the Extending Senior Lenders thereof; provided, that the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that all Senior Secured Debt (after taking into account the Construction/Term Loans converted to extend the related scheduled

final maturity date in accordance with this clause (a) outstanding at such time is capable of amortization such that the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the expiration of the term of the Notional Amortization Period shall not be less than 1.45:1.00. No Senior Lender shall have any obligation to agree to have any of its Construction/Term Loans converted into Extended Construction/Term Loans pursuant to any Construction/Term Loan Extension Request and no such refusal shall in and of itself entitle the Borrower to exercise rights under Section 5.4 with respect to such refusing Senior Lender.

- (b) The Borrower shall provide the applicable Construction/Term Loan Extension Request at least thirty days (or such shorter period as the TCF Administrative Agent may determine in its sole discretion) prior to the date on which Senior Lenders are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the TCF Administrative Agent, in each case acting reasonably, to accomplish the purpose of this Section 2.11. Any Senior Lender (an “**Extending Senior Lender**”) wishing to have all or a portion of its Existing Construction/Term Loans subject to such Construction/Term Loan Extension Request converted into Extended Construction/Term Loans shall notify the TCF Administrative Agent (an “**Extension Election**”) on or prior to the date specified in such Construction/Term Loan Extension Request of the amount of its Existing Construction/Term Loans subject to such Construction/Term Loan Extension Request that it has elected to convert into Extended Construction/Term Loans (subject to any minimum denomination requirements imposed by the TCF Administrative Agent). In the event that the aggregate amount of the Construction/Term Loans subject to Extension Elections exceeds the amount of Extended Construction/Term Loans requested pursuant to the Construction/Term Loan Extension Request, Existing Construction/Term Loans shall be converted to Extended Construction/Term Loans on a *pro rata* basis based on the amount of Existing Construction/Term Loans included in each such Extension Election (subject to rounding).
- (c) Extended Construction/Term Loans shall be established pursuant to an amendment (an “**Extension Amendment**”) to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.11(c) and notwithstanding anything to the contrary set forth in Section 14.1, shall not require the consent of any Senior Lender other than the Extending Senior Lenders with respect to the Extended Construction/Term Loans established thereby) executed by the Borrower, the TCF Administrative Agent and the Extending Senior Lenders. In addition to any terms and changes required or permitted by this Section 2.11 above, each Extension Amendment shall amend the scheduled amortization payments pursuant to Section 4.1 with respect to the Existing Construction/Term Loans to reduce each scheduled repayment amount for the Existing Construction/Term Loans in the same proportion as the amount of Existing Construction/Term Loans is to be converted pursuant to such Extension Amendment (it being understood that the amount of any repayment amount payable with respect to any individual Existing Construction/Term Loan that is not an Extended Construction/Term Loan shall not be reduced as a result thereof). It is understood and agreed that each Senior Lender hereunder has consented, and

shall at the effective time thereof be deemed to consent, to each amendment to this Agreement and the other TCF Financing Documents authorized by this Section 2.11 and the arrangements described above in connection therewith.

- (d) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Construction/Term Loans are converted to extend the related scheduled final maturity date in accordance with clause (a) above, the aggregate principal amount of such Existing Construction/Term Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Construction/Term Loans so converted by such Senior Lender on such date.
- (e) No exchange or conversion of Construction/Term Loans or Construction/Term Loan Commitments pursuant to any Extension Amendment in accordance with this Section 2.11 shall (i) be made at any time an Event of Default shall have occurred and be continuing and (ii) constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement or the other TCF Financing Documents.

3. [RESERVED]

4. REPAYMENTS, PREPAYMENTS, INTEREST AND FEES

4.1. Repayment of Construction/Term Loan Borrowings

- (a) The Borrower unconditionally and irrevocably promises to pay to the TCF Administrative Agent for the ratable account of each Senior Lender the aggregate outstanding principal amount of the Construction/Term Loans on each Principal Payment Date, in accordance with the Amortization Schedule.
- (b) Notwithstanding anything to the contrary set forth in Section 4.1(a), the final principal repayment installment on the Credit Agreement Maturity Date shall in any event be in an amount equal to the aggregate principal amount of all Construction/Term Loans outstanding on such date.

4.2. [Reserved]

4.3. Interest Payment Dates

- (a) Interest accrued on each Construction/Term Loan shall be payable, without duplication, on the following dates (each, an **"Interest Payment Date"**):
 - (i) with respect to any repayment or prepayment of any Base Rate Loans or of all of the aggregate principal on any SOFR Loans, on the date of each such repayment or prepayment;
 - (ii) with respect to any partial repayment or prepayment of principal on any SOFR Loans, on the next Monthly Transfer Date;
 - (iii) on the Credit Agreement Maturity Date;

- (iv) with respect to SOFR Loans, (x) on each Quarterly Payment Date or (y) at the option of the Borrower with written notice to the TCF Administrative Agent, on a Monthly Transfer Date or, (zy) if applicable, any date on which such SOFR Loan is converted to a Base Rate Loan; and
- (v) with respect to Base Rate Loans, on each Quarterly Payment Date or, if applicable, any date on which such Base Rate Loan is converted to a SOFR Loan.
- (b) Interest accrued on the Construction/Term Loans or other Obligations after the date such amount is due and payable (~~whether on the Credit Agreement Maturity Date, any Monthly Transfer Date, any Quarterly Payment Date, any Interest Payment Date~~ **as provided in clause (a)**, upon acceleration or otherwise) shall be payable upon demand.
- (c) Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the occurrence of an event described in Section 12.1.

4.4. Interest Rates

- (a) Pursuant to each properly delivered Borrowing Notice, the SOFR Loans shall accrue interest at a rate ~~per annum~~ equal to the sum of Daily Compounded SOFR plus the Applicable Margin for such Construction/Term Loans.
- (b) Notwithstanding anything to the contrary, the Borrower shall have, in the aggregate, no more than five separate SOFR Loans outstanding at any one time.
- (c) Pursuant to each properly delivered Borrowing Notice, each Base Rate Loan shall accrue interest at a rate ~~per annum~~ equal to the sum of the Base Rate ~~plus~~ the Applicable Margin for such Construction/Term Loans.
- (d) All Base Rate Loans shall bear interest from and including the date such Construction/Term Loan is made (or the day on which SOFR Loans are converted to Base Rate Loans as required under Article 5) to (but excluding) the date such Construction/Term Loan or portion thereof is paid at the interest rate determined as applicable to such Base Rate Loan.
- (e) Daily Compounded SOFR Conforming Changes. In connection with the use or administration of Daily Compounded SOFR, the TCF Administrative Agent will have the right to make Conforming Changes from time to time (in consultation with the Borrower) and, notwithstanding anything to the contrary herein or in any other TCF Financing Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other TCF Financing Document. The TCF Administrative Agent will promptly notify the Borrower and the Senior Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Daily Compounded SOFR.

4.5. Conversion Options

- (a) Elections by Borrower for Construction/Term Loan Borrowings. Subject to Section 2.2 (with respect to Construction/Term Loan Borrowings) and Section 4.4(b), Section 5.1, and Section 5.2, the Construction/Term Loans comprising each Construction/Term Loan Borrowing initially shall be of the Type specified in the applicable Borrowing Notice. Thereafter, the Borrower may elect to convert such Construction/Term Loan Borrowing to a Construction/Term Loan Borrowing of a different Type or to continue such Construction/Term Loan Borrowing as a Construction/Term Loan Borrowing of the same Type, all as provided in this Section 4.5; provided that no SOFR Loan may be converted into a Base Rate Loan on any date other than ~~the Quarterly Payment~~ a Monthly Transfer Date of such SOFR Loan. The Borrower may elect different options with respect to different portions of the affected Construction/Term Loan Borrowing, in which case each such portion shall be allocated ratably among the Senior Lenders holding the Construction/Term Loans comprising such Construction/Term Loan Borrowing, and the Construction/Term Loans comprising each such portion shall be considered a separate Construction/Term Loan Borrowing.
- (b) Notice of Elections. Each such election pursuant to this Section 4.5 shall be made upon the Borrower's irrevocable notice to the TCF Administrative Agent. Each such notice shall be in the form of a written Interest Election Request, appropriately completed and signed by an Authorized Officer of the Borrower, or may be given by telephone to the TCF Administrative Agent (if promptly confirmed in writing by delivery of such a written Interest Election Request consistent with such telephonic notice) and must be received by the TCF Administrative Agent not later than the time that a Borrowing Notice would be required under Section 2.2 (with respect to Construction/Term Loan Borrowings) if the Borrower were requesting a Construction/Term Loan Borrowing of the Type resulting from such election to be made on the effective date of such election.
- (c) Content of Interest Election Requests. Each Interest Election Request pursuant to this Section shall specify the following information in compliance with Section 2.2 (with respect to Construction/Term Loan Borrowings):
- (i) the Construction/Term Loan Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Construction/Term Loan Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Construction/Term Loan Borrowing);
 - (ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day; and
 - (iii) whether the resulting Construction/Term Loan Borrowing is to be comprised of Base Rate Loans or SOFR Loans.

- (d) Notice by TCF Administrative Agent to Senior Lenders. The TCF Administrative Agent shall advise each applicable Senior Lender of the details of an Interest Election Request and such Senior Lender's portion of such resulting Construction/Term Loan Borrowing no less than one Business Day before the effective date of the election made pursuant to such Interest Election Request.
- (e) Failure to Make an Interest Election Request; Events of Default If the Borrower fails to deliver a timely and complete Interest Election Request with respect to a Construction/Term Loan Borrowing comprising SOFR Loans prior to the ~~Interest Payment~~ **Monthly Transfer** Date therefor, then, unless such Construction/Term Loan Borrowing comprising SOFR Loans is repaid as provided herein, the Borrower shall be deemed to have selected that such Construction/Term Loan Borrowing shall automatically be continued as a Construction/Term Loan Borrowing comprising SOFR Loans bearing interest at a rate based upon Daily Compounded SOFR as of such ~~Interest Payment~~ **Monthly Transfer** Date. Notwithstanding any contrary provision hereof, if a Default or Event of Default has occurred and is continuing, then, so long as such Default or Event of Default is continuing no outstanding Construction/Term Loan Borrowing comprised of Base Rate Loans may be converted to a Construction/Term Loan Borrowing comprised of SOFR Loans.

4.6. Post-Maturity Interest Rates; Default Interest Rates

If all or a portion of the principal amount of any Construction/Term Loan is not paid when due (whether on the Credit Agreement Maturity Date, by acceleration or otherwise) or any Obligation under this Agreement (other than principal on the Construction/Term Loans) is not paid when due (whether on the Credit Agreement Maturity Date, by acceleration or otherwise), such amount shall bear interest at a rate *per annum* equal to the applicable Default Rate from the date of such non-payment until the amount then due is paid in full (after as well as before judgment).

4.7. Interest Rate Determination

The TCF Administrative Agent shall determine the interest rate applicable to the Construction/Term Loans and shall give prompt notice of such determination to the Borrower and the Senior Lenders. In each such case, the TCF Administrative Agent's determination of the applicable interest rate shall be conclusive in the absence of manifest error.

4.8. Computation of Interest and Fees

- (a) All computations of interest for Base Rate Loans when the Base Rate is determined by the Prime Rate shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All computations of interest for SOFR Loans, and for Base Rate Loans when the Base Rate is determined by the Federal Funds Effective Rate, shall be made on the basis of a 360-day year and actual days elapsed.
- (b) Interest shall accrue on each Construction/Term Loan for the day on which the Construction/Term Loan is made, and shall not accrue on a Construction/Term

Loan, or any portion thereof, for the day on which the Construction/Term Loan or such portion is paid;provided, that any Construction/Term Loan that is repaid on the same day on which it is made shall bear interest for one day.

- (c) All interest hereunder on any Construction/Term Loan other than a Construction/Term Loan computed by reference to Daily Compounded SOFR shall be computed on a daily basis based upon the outstanding principal amount of such Construction/Term Loan as of the applicable date of determination. All interest hereunder on any Construction/Term Loan computed by reference to Daily Compounded SOFR shall be computed as of any applicable date of determination on a daily basis based upon (x) the outstanding principal amount of such Construction/Term Loan as of such date of determination plus (y) the accrued, unpaid interest on such Construction/Term Loan attributable to Daily Compounded SOFR (and not, for the avoidance of doubt, attributable to the Applicable Margin) as of the immediately preceding U.S. Government Securities Business Day. Each determination by the TCF Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

4.9. Optional Prepayment

- (a) The Borrower shall have the right to prepay the Construction/Term Loans (in whole or part) without premium or penalty by providing notice to the TCF Administrative Agent prior to 11:00 a.m., New York City time, on the date that is (i) with respect to any prepayment of SOFR Loans, five U.S. Government Securities Business Days and (ii) with respect to any prepayment of Base Rate Loans, one Business Day, prior to the proposed prepayment date. Any prepayment notice may be revoked; provided, that the Borrower shall be responsible for any additional amounts required to be paid to any Senior Lender pursuant to Section 5.5 as a result of such revocation.
- (b) Prepayments pursuant to this Section 4.9 may be applied to the prepayment of Construction/Term Loans as directed by the Borrower.
- (c) Any partial voluntary prepayment of the Construction/Term Loans under this Section 4.9 shall be in minimum amounts of \$10,000,000.
- (d) All voluntary prepayments under this Section 4.9 shall be made by the Borrower to the TCF Administrative Agent for the account of the Senior Lenders in accordance with Section 4.9(e).
- (e) With respect to each prepayment to be made pursuant to this Section 4.9, on the date specified in the notice of prepayment delivered pursuant to Section 4.9(a), the Borrower shall pay to the TCF Administrative Agent the sum of the following amounts:
 - (i) the principal of, and (other than for partial repayments of Construction/Term Loans) accrued but unpaid interest on, the Construction/Term Loans to be prepaid;

- (ii) any additional amounts required to be paid under Section 5.5; and
 - (iii) any other Obligations due to the Credit Agreement Senior Secured Parties in connection with any prepayment under the TCF Financing Documents.
- (f) The Borrower (i) shall either (A) concurrently with such prepayment under this Section 4.9, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements required to be terminated in connection with such prepayment in accordance with Section 4.18; or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be required to be payable by the Borrower in respect of the Senior Secured IR Hedge Agreements terminated in connection with such prepayment in accordance with Section 4.18 and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements required to be terminated in connection with such prepayment in accordance with Section 4.18 and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Construction/Term Loans that were subject to such optional prepayment; and (ii) may either (A) concurrently with such prepayment under this Section 4.9, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements that have been and are permitted to be terminated in connection with such prepayment in accordance with Section 4.18; or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be payable in connection with such prepayment as a result of terminations of the Senior Secured IR Hedge Agreements that are permitted to be made in connection with such prepayment in accordance with Section 4.18 and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties to the Senior Secured IR Hedge Agreements the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Agreements permitted to be terminated in connection with such prepayment in accordance with Section 4.18 and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Construction/Term Loans that were subject to such prepayment.
- (g) Voluntary payments of principal of the Construction/Term Loans will be applied *pro rata* against subsequent scheduled payments, in inverse order of maturity, or in direct order of maturity, at the Borrower's sole discretion.
- (h) Amounts of any Construction/Term Loans prepaid pursuant to this Section 4.9 may not be reborrowed.

4.10. Mandatory Prepayment

- (a) The Borrower shall be required to prepay the Construction/Term Loans (or, in the case of any prepayments pursuant to clause (i) below to the extent that the Event of Loss for which such Loss Proceeds were received also resulted in an Event of Default) in accordance with Section ~~9.7~~ 9.8 (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) of the Collateral and Intercreditor Agreement (but subject to Section 4.10(hi)) with the applicable Senior Lenders' ratable share of the Mandatory Prepayment Portion of the following:
- (i) Loss Proceeds, to the extent that the aggregate amount of such Loss Proceeds previously received by the Borrower over the term of this Agreement and not applied for mandatory prepayment exceeds \$75,000,000 and such Loss Proceeds are not applied to ~~Restore the Project in accordance with Section 3.10 (P1 Insurance Proceeds Account)~~ Section 9.2(b) (Loss Proceeds) of the P1 Accounts Collateral and Intercreditor Agreement;
 - (ii) Asset Sale Proceeds, to the extent such Asset Sale Proceeds result from any Asset Sale that is not permitted by Section 9.3;
 - (iii) from and after April 1, 2025, the net proceeds of any Replacement Debt allocated by the Borrower in accordance with Section 2.4(b)(ii) (*Replacement Debt*) of the Common Terms Agreement, allocated on a *pro rata* basis between the outstanding Construction/Term Loans hereunder and the outstanding "Construction/Term Loans" under and as defined in the CD Credit Agreement and the amount of Construction/Term Loans prepayable hereunder will be reduced accordingly;
 - (iv) if the conditions applicable to making a Distribution set forth in Section 9.10(a) have not been satisfied for four consecutive Quarterly Payment Dates, funds on deposit in the P1 Distribution Reserve Account on such fourth Quarterly Payment Date or the date specified in Section 4.11(d), if applicable, (after effecting any transfers therefrom on or prior to such date in accordance with the P1 Accounts Agreement);
 - (v) all Performance Liquidated Damages payments to the Borrower that are in excess of \$75,000,000, to the extent that such Performance Liquidated Damages are not used to (A) make any indemnity payments owed to any Material Project Party pursuant to any Designated Offtake Agreement as a result of the applicable performance shortfall, (B) complete or repair the Project facilities in respect of which Performance Liquidated Damages were paid, or (C) reimburse Voluntary Equity Contributions to the extent such Voluntary Equity Contributions were used to fund any amounts payable by the Borrower and referred to in the foregoing clauses (A) and (B); and
 - (vi) all Termination Payments to the Borrower that are in excess of \$75,000,000, to the extent such Termination Payments are not used to (A)

rectify the damages or losses suffered under the relevant Material Project Document resulting from such breach by such Material Project Party or (B) reimburse Voluntary Equity Contributions to the extent such Voluntary Equity Contributions were used to fund any amounts payable by the Borrower and referred to in the foregoing clause (A).

- (b) The Borrower shall, if applicable, make prepayments ~~(if any)~~ of Construction/Term Loans and cancel Construction/Term Loan Commitments as may be required upon the occurrence of an LNG Sales Mandatory Prepayment Event in accordance with Section 8.5(e).
- (c) With respect to each prepayment of the Construction/Term Loans to be made pursuant to this Section 4.10, on the date required pursuant to ~~Section 9-8~~ 9.7 (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) of the Collateral and Intercreditor Agreement, the Borrower shall pay to the TCF Administrative Agent the amount determined in accordance therewith, which shall be applied as follows:
 - (i) *first*, on a *pro rata* basis to the payment to the Senior Lenders to be prepaid pursuant to Section 4.10(a) of (A) accrued but unpaid interest and fees on the Construction/Term Loans to be prepaid and (B) any additional amounts required to be paid under Section 5.5 in connection with such prepayment; and
 - (ii) *second*, on a *pro rata* basis, for the prepayment to the applicable Senior Lenders for the prepayment of principal of the Construction/Term Loans to be prepaid pursuant to Section 4.10(a).
- (d) The Borrower (i) shall either (A) concurrently with any mandatory prepayment pursuant to this Section 4.10, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any portion of the Senior Secured IR Hedge Transactions required to be terminated in connection with such prepayment in accordance with ~~Section 9-8~~ 9.7 (c) (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) or Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (as applicable) and Section 4.18 or Section 4.19 (as applicable) or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be required to be payable by the Borrower in respect of any portion of the Senior Secured IR Hedge Transactions terminated in connection with such prepayment in accordance with ~~Section 9-8~~ 9.7 (c) (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) or Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (as applicable) and Section 4.18 or Section 4.19 (as applicable) and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any portion of the Senior Secured IR Hedge Transactions required to be terminated in connection with such prepayment in accordance with ~~Section 9-8~~ 9.7 (c) (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement*

Action) or Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (as applicable) and Section 4.18 or Section 4.19 (as applicable) and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Construction/Term Loans that were subject to such mandatory prepayment and (ii) may either (A) concurrently with such mandatory prepayment under this Section 4.10, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any portion of the Senior Secured IR Hedge Transactions are permitted to be terminated in connection with such prepayment in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement and Section 4.19 or (B) (1) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be payable in connection with such prepayment as a result of terminations of Senior Secured IR Hedge Transactions that are permitted in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement and Section 4.19 and (2) (x) within thirty days of the date of such prepayment, pay to the Senior Secured IR Hedge Counterparties the P1 IR Hedge Termination Amounts payable in respect of any Senior Secured IR Hedge Transactions permitted to be terminated in connection with such prepayment in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement and Section 4.19 and (y) on the date of such payment of the last such P1 IR Hedge Termination Amounts pursuant to clause (x) above, apply any amounts not applied to the payment of P1 IR Hedge Termination Amounts to the principal of the Construction/Term Loans that were subject to such prepayment.

- (e) Mandatory prepayments of the principal of the Construction/Term Loans will be applied (i) in the case of mandatory prepayments pursuant to Section 4.10(a)(iii), Section 4.10(a)(v), **Section 4.10(a)(vi)**, or Section 4.10(b), *pro rata* against all remaining scheduled amortization payments in respect of the applicable Construction/Term Loans, (ii) in the case of all other mandatory prepayments, in inverse order of maturity, and (iii) in the case of mandatory prepayments pursuant to Section 4.10(a)(iii), to all outstanding Construction/Term Loans.
- (f) **The Borrower shall provide notice (each a “Replacement Debt Prepayment Notice”) to the TCF Administrative Agent of any anticipated mandatory prepayment pursuant to Section 4.10(a)(iii) by no later than 1:00 pm on the second Business Day prior to the date of such anticipated mandatory prepayment, which notice the TCF Administrative Agent shall promptly forward to each Senior Lender on the same day that it is received from the Borrower; provided, that such notice of prepayment by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or debt instruments, in which case such notice may be revoked by the Borrower (by notice to the TCF Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Each Specified Senior Lender may, by notice to the TCF Administrative Agent in writing or by telephone (confirmed in writing) no later than 5:00 pm one Business Day**

after receipt of a Replacement Debt Prepayment Notice elect to decline all (but not less than all) of such Replacement Debt with respect to the anticipated mandatory prepayment of its outstanding Construction/Term Loans pursuant to Section 4.10(a)(iii) (such declined prepayment amounts, the "Declined Replacement Debt Proceeds"). The aggregate amount of Declined Replacement Debt Proceeds shall be allocated to the Non-Declining Senior Lenders on a pro rata basis in accordance with the aggregate amount of their respective outstanding Construction/Term Loans; provided, that, if the amount of Declined Replacement Debt Proceeds exceeds the aggregate amount of outstanding Construction/Term Loans held by the Non-Declining Senior Lenders (such excess amounts (if any), the "Excess Replacement Debt Proceeds"), the Excess Replacement Debt Proceeds shall be allocated to the Specified Senior Lenders that have declined Replacement Debt on a pro rata basis in accordance with the aggregate amount of their respective outstanding Construction/Term Loans.

- (g) Amounts of any Construction/Term Loans prepaid pursuant to this Section 4.10 may not be reborrowed.
- (h) No premium or penalty shall be payable in connection with any prepayment under this Section 4.10.
- (i) Any prepayments pursuant to Section 4.10(a)(iii) shall be applied to the Construction/Term Loans prior to the prepayment of any Replacement Debt, Supplemental Debt, or Working Capital Debt not consisting of Construction/Term Loans.
- (j) In the event that a mandatory prepayment of Senior Secured Debt is triggered pursuant to Section 4.10(b) and the Borrower does not have sufficient cash available pursuant to the P1 Accounts Agreement to make such mandatory prepayment, the P1 Collateral Agent (at the direction of the P1 Intercreditor Agent) shall draw on each Distribution LC and Distribution Guaranty in-full and deposit the proceeds of such draws into the P1 Debt Prepayment Account.

4.11. Time and Place of Payments

- (a) The Borrower shall make each payment (including any payment of principal of or interest on any Construction/Term Loan or any Fees or other Obligations) hereunder without setoff, deduction or counterclaim not later than 1:00 p.m., New York City time, on the date when due in Dollars and in immediately available funds to the TCF Administrative Agent at the following account: MUFG Bank, Ltd., ABA # 026-009-632, SWIFT ID: BOTKUS33, Account Name: LOAN OPERATIONS DEPARTMENT, Account # 9777-0191, Atten: AGENCY DESK, Ref: Rio Grande, or at such other office or account as may from time to time be specified by the TCF Administrative Agent to the Borrower. Funds received after 1:00 p.m., New York City time shall be deemed to have been received by the TCF Administrative Agent on the next succeeding Business Day for the purpose of calculating interest thereon.

- (b) The TCF Administrative Agent shall promptly remit in immediately available funds to each Credit Agreement Senior Secured Party its share, if any, of any payments received by the TCF Administrative Agent for the account of such Credit Agreement Senior Secured Party.
- (c) Except as provided herein, whenever any payment (including any payment of interest or principal on any Construction/Term Loan or any Fees or other Obligations) hereunder shall become due, or otherwise would occur, on a day that is not a Business Day, such payment shall be made on the immediately succeeding Business Day, and such increase of time shall in such case be included in the computation of interest or Fees, if applicable unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day.
- (d) Mandatory prepayments in accordance with Section 4.10 (other than Section 4.10(a)(iii)) may be made by the Borrower on the first Quarterly Payment Date **(or any Monthly Transfer Date preceding such Quarterly Payment Date)** occurring after such prepayment is required to be made pursuant to this Section 4.11 if (i) the relevant prepayment amount is held in a segregated account in which the P1 Collateral Agent (on behalf of the Senior Lenders) has a perfected first-priority security interest **(including, in the case of any mandatory prepayment required by Section 4.10(a)(iv), the P1 Distribution Reserve Account)** and (ii) no Event of Default has occurred and is continuing.

4.12. Borrowings and Payments Generally

- (a) Unless the TCF Administrative Agent has received notice from the Borrower prior to the date on which any payment is due to the TCF Administrative Agent for the account of the Senior Lenders hereunder that the Borrower will not make such payment, the TCF Administrative Agent may assume that the Borrower has made such payment on such date in accordance with this Agreement and may, in reliance upon such assumption, distribute to the Senior Lenders the amount due. If the Borrower has not in fact made such payment, then each of the Senior Lenders severally agrees to repay to the TCF Administrative Agent forthwith on demand the amount so distributed to such Senior Lender in immediately available funds with interest thereon, for each day from (and including) the date such amount is distributed to it to (but excluding) the date of payment to the TCF Administrative Agent, at the Federal Funds Effective Rate. A notice of the TCF Administrative Agent to any Senior Lender with respect to any amount owing under this Section 4.12 shall be conclusive, absent manifest error.
- (b) Except as set forth in Section 4.10(c), if at any time insufficient funds are received by and available to the TCF Administrative Agent to pay fully all amounts of principal, interest, fees and other amounts then due hereunder, such funds shall be applied (i) *first*, to pay interest, fees and other amounts (except for the amounts required to be paid pursuant to the following clause (ii)) then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest, fees and such other amounts then due to such parties, and (ii) *second*, to pay principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

- (c) Nothing herein shall be deemed to obligate any Senior Lender to obtain funds for any Construction/Term Loan in any particular place or manner or to constitute a representation by any Senior Lender that it has obtained or will obtain funds for any Construction/Term Loan in any particular place or manner.
- (d) The Borrower hereby authorizes each Senior Lender, if and to the extent payment owed to such Senior Lender is not made when due under this Agreement or under the Construction/Term Loan Notes held by such Senior Lender, to charge from time to time against any or all of the Borrower's accounts with such Senior Lender any amount so due.

4.13. Fees

- (a) From and including the Closing Date and until the end of the Construction/Term Loan Availability Period, the Borrower agrees to pay to the TCF Administrative Agent, for the account of the Senior Lenders, on each Quarterly Payment Date, a commitment fee at a rate *per annum* equal to 30% of the Applicable Margin for SOFR Loans on the average daily amount during the period from and including the last Quarterly Payment Date (or from and including the Closing Date in the case of the first Quarterly Payment Date) to but excluding such Quarterly Payment Date, by which the Aggregate Construction/Term Loan Commitment exceeds the aggregate outstanding principal balance of the Construction/Term Loans.
- (b) All Commitment Fees shall be payable in arrears and computed on the basis of the actual number of days elapsed in a year of 365 days or 366 days, as the case may be, as pro-rated for any partial period, as applicable. Notwithstanding the foregoing, the Borrower will not be required to pay any Commitment Fee to any Senior Lender with respect to any period in which such Senior Lender was a Defaulting Lender.
- (c) The Borrower agrees to pay or cause to be paid additional fees in the amounts and at the times from time to time agreed pursuant to each applicable Bank Fee Letter and each applicable Fee Letter.
- (d) All Fees shall be paid on the dates due in immediately available funds. Once paid, none of the Fees shall be refundable under any circumstances.

4.14. Pro Rata Treatment

- (a) The portion of any Construction/Term Loan Borrowing shall be allocated by the TCF Administrative Agent *pro rata* among the Senior Lenders of any Tranche in accordance with each Senior Lender's Construction/Term Loan Tranche Percentage.
- (b) Except as otherwise provided in Article 5, each reduction of Construction/Term Loan Commitments pursuant to Section 2.4 or otherwise, shall be allocated by the TCF Administrative Agent *pro rata* among the Senior Lenders in accordance with each Senior Lender's Construction/Term Loan Commitment Percentage.

- (c) Except as otherwise required under Article 5, each payment or prepayment of principal of the Construction/Term Loans shall be allocated by the TCF Administrative Agent *pro rata* among the Senior Lenders in accordance with the respective principal amounts of their outstanding Construction/Term Loans in any Tranche, and each payment of interest on the Construction/Term Loans in any Tranche shall be allocated by the TCF Administrative Agent *pro rata* among the Senior Lenders in accordance with the respective interest amounts outstanding on the Construction/Term Loans in any Tranche held by them. Each payment of the Commitment Fees shall be allocated by the TCF Administrative Agent *pro rata* among the applicable Senior Lenders in accordance with their respective Construction/Term Loan Commitments.

4.15. Sharing of Payments

- (a) If any Senior Lender obtains any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Construction/Term Loan (other than pursuant to the terms of Article 5) in excess of its *pro rata* share of payments then or therewith obtained by all Senior Lenders holding Construction/Term Loans, such Senior Lender shall purchase from the other Senior Lenders (for cash at face value) such participations in Construction/Term Loans of such type made by them as shall be necessary to cause such purchasing Senior Lender to share the excess payment or other recovery ratably with each of them; provided, that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Senior Lender, the purchase shall be rescinded and each Senior Lender that has sold a participation to the purchasing Senior Lender shall repay to the purchasing Senior Lender the purchase price to the ratable extent of such recovery together with an amount equal to such selling Senior Lender's ratable share (according to the proportion of (x) the amount of such selling Senior Lender's required repayment to the purchasing Senior Lender to (y) the total amount so recovered from the purchasing Senior Lender) of any interest or other amount paid or payable by the purchasing Senior Lender in respect of the total amount so recovered. The Borrower agrees that any Senior Lender so purchasing a participation from another Senior Lender pursuant to this Section 4.15(a) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 14.14) with respect to such participation as fully as if such Senior Lender were the direct creditor of the Borrower in the amount of such participation. The provisions of this Section 4.15 shall not be construed to apply to any payment by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by any Senior Lender as consideration for the assignment or sale of a participation in any of its Construction/Term Loans to which it has a participation interest.
- (b) If under any applicable bankruptcy, insolvency or other similar law, any Senior Lender receives a secured claim in lieu of a setoff to which this Section 4.15 applies, then such Senior Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Senior Lenders entitled under this Section 4.15 to share in the benefits of any recovery on such secured claim.

4.16. Defaulting Lender Waterfall

Notwithstanding anything in this Agreement or any other TCF Financing Document to the contrary, any payment of principal, interest, fees or other amounts received by the TCF Administrative Agent for the account of any Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to [Article 12](#) or otherwise) or received by the TCF Administrative Agent from a Defaulting Lender pursuant to [Section 14.14](#) shall be applied at such time or times as may be determined by the TCF Administrative Agent as follows: (a) *first*, to the payment of any amounts owing by such Defaulting Lender to the TCF Administrative Agent or P1 Collateral Agent hereunder, and (b) *second*, as the Borrower may request (so long as no Default or Event of Default has occurred and is continuing), to the funding of any Construction/Term Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the TCF Administrative Agent, (c) *third*, if so determined by the TCF Administrative Agent and the Borrower, to be held in a deposit account and released *pro rata* in order to satisfy such Defaulting Lender's potential future funding obligations with respect to the Construction/Term Loans under this Agreement, (d) *fourth*, to the payment of any amounts owing to the Senior Lenders as a result of any final and Non-Appealable judgment of a court of competent jurisdiction obtained by any Senior Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, (e) *fifth*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any final and Non-Appealable judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, and (f) *sixth*, to such Defaulting Lender or as otherwise directed by a final and Non-Appealable judgment of a court of competent jurisdiction; provided, that if (x) such payment is a payment of the principal amount of Construction/Term Loans in respect of which such Defaulting Lender has not funded its appropriate share and (y) such Construction/Term Loans were made during a period when the applicable conditions to such Construction/Term Loan Borrowing or issuance set forth in [Article 7](#) were satisfied or waived, such payment shall be applied solely to pay the Construction/Term Loans of all Senior Lenders that are not Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Construction/Term Loans of such Defaulting Lender, until such time as all Construction/Term Loans are held by the Senior Lenders *pro rata* in accordance with the applicable Construction/Term Loan Commitments. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this [Section 4.16](#) shall be deemed paid to and redirected by such Defaulting Lender, and each Senior Lender irrevocably consents hereto.

4.17. Defaulting Lender Cure

If the Borrower and the TCF Administrative Agent agree in writing that any Senior Lender is no longer a Defaulting Lender, the TCF Administrative Agent will so notify the Parties, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), that Senior Lender will, to the extent applicable, purchase at par that portion of outstanding Construction/Term Loans of the other Senior Lenders or take such other actions as the TCF Administrative Agent may determine to be necessary to cause the Construction/Term Loans to be held *pro rata* by the Senior Lenders in accordance with

the Construction/Term Loan Commitments, whereupon such Senior Lender will cease to be a Defaulting Lender; provided, that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Senior Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Senior Lender will constitute a waiver or release of any claim of any party hereunder arising from that Senior Lender's having been a Defaulting Lender.

4.18. Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Collateral Proceeds

If any mandatory prepayment of the Senior Secured Debt is made by the Borrower in accordance with the provisions of Sections 4.10(a)(i), 4.10(a)(ii), 4.10(a)(iv), 4.10(a)(v), or 4.10(b), then the Borrower (a) shall terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreement, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that the aggregate notional amount (after giving effect to any Offsetting Transactions) of the Senior Secured IR Hedge Transactions satisfies the maximum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 9.5 and (b) may, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11, terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to such prepayment of Senior Secured Debt, the aggregate notional amount of the Senior Secured IR Hedge Transactions across all Senior Secured IR Hedge Counterparties is not less than the minimum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11.

4.19. Termination of Senior Secured IR Hedge Transactions in Connection with Mandatory Prepayments with Replacement Debt

A portion of the net proceeds of any Replacement Debt (a) shall, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 9.5, be used to terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to any prepayment of Senior Secured Debt with such Replacement Debt, the aggregate notional amount (after giving effect to any Offsetting Transactions) of all Senior Secured IR Hedge Transactions does not exceed the maximum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement or Section 9.5 and (b) may, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11, be used to terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to any prepayment of Senior Secured Debt with such Replacement Debt, the aggregate notional amount of the Senior Secured IR Hedge Transactions across all Senior Secured IR Hedge Counterparties is not less than the minimum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11.

4.20. Termination of Senior Secured IR Hedge Transactions in Connection with Voluntary Payments

Upon any voluntary prepayment of the Senior Secured Debt, the Borrower (a) shall, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 9.5, terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of one or more Senior Secured IR Hedge Transactions such that, after giving pro forma effect to such prepayment of Senior Secured Debt, the aggregate notional amount (after giving effect to any Offsetting Transactions) of the Senior Secured IR Hedge Transactions does not exceed the maximum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement or Section 9.5 and (b) may, pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11, terminate or, to the extent permitted by the applicable Senior Secured IR Hedge Agreements, transfer or novate, a portion of the Senior Secured IR Hedge Transactions such that, after giving *pro forma* effect to such prepayment of Senior Secured Debt, the aggregate notional amount of the Senior Secured IR Hedge Transactions across all Senior Secured IR Hedge Providers is not less than the minimum hedging requirements of the Borrower pursuant to Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement and Section 8.11.

5. SOFR, BENCHMARK, AND TAX PROVISIONS

5.1. Illegality

In the event that it becomes unlawful or, by reason of a Change in Law, any Senior Lender is unable to honor its obligation to make, maintain or fund SOFR Loans or to determine or charge interest rates based upon SOFR or Daily Compounded SOFR, then such Senior Lender will promptly notify the Borrower of such event (with a copy to the TCF Administrative Agent) (an “**Illegality Notice**”) and such Senior Lender’s obligation to make or to continue SOFR Loans, or to convert Base Rate Loans into SOFR Loans, as the case may be, shall be suspended until such time as such Senior Lender may again make and maintain SOFR Loans. During such period of suspension, the Base Rate shall, if necessary to avoid such illegality, be determined by the TCF Administrative Agent without reference to clause (c) of the definition of “Base Rate”. Upon receipt of such Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Senior Lender (with a copy to the TCF Administrative Agent), prepay or if applicable, convert each SOFR Loan made by such Senior Lender to Base Rate Loans (the interest rate on which Base Rate Loan shall, if necessary to avoid such illegality, be determined by the TCF Administrative Agent without reference to clause (c) of the definition of “Base Rate”), on the ~~Quarterly Payment~~ **Monthly Transfer** Date ~~therefor~~ **for such SOFR Loan**, or immediately if any Senior Lender may not lawfully continue to maintain such SOFR Loans to such day. Upon any such prepayment or conversion of all of the aggregate principal amount under any outstanding SOFR Loan, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.5. At the Borrower’s request, each Senior Lender agrees to use reasonable efforts, including using reasonable efforts to designate a different lending office for funding or booking its Construction/Term Loans or to assign its rights and obligations under the TCF Financing Documents to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Senior Lender,

such designation or assignment (a) would eliminate or avoid such illegality and (b) would not subject such Senior Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Senior Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Senior Lender in connection with any such designation or assignment.

5.2. Inability to Determine Rates

(a) Subject to Section 5.7, if, as of any date:

- (i) the TCF Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Daily Compounded SOFR" cannot be determined pursuant to the definition thereof, or
- (ii) the Majority Senior Lenders determine that for any reason in connection with any SOFR Loan, any request therefor or a conversion thereto or a continuation thereof that Daily Compounded SOFR does not adequately and fairly reflect the cost to such Senior Lenders of making and maintaining such Construction/Term Loan, and the Majority Senior Lenders have provided notice of such determination to the TCF Administrative Agent,

then, in each case, the TCF Administrative Agent will promptly so notify the Borrower and each Senior Lender.

- (b) Upon notice thereof by the TCF Administrative Agent to the Borrower, any obligation of the Senior Lenders to make SOFR Loans, and any right of the Borrower to continue SOFR Loans or to convert Base Rate Loans to SOFR Loans, shall be suspended (to the extent of the affected SOFR Loans) until the TCF Administrative Agent (with respect to clause (a)(ii), at the instruction of the Majority Senior Lenders) revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans (to the extent of the affected SOFR Loans) or, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (ii) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans immediately. Upon any such conversion of all of the aggregate principal amount under any outstanding SOFR Loan, the Borrower shall also pay accrued interest on the amount so converted, together with any additional amounts required pursuant to Section 5.5. Subject to Section 5.7, if the TCF Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Daily Compounded SOFR" cannot be determined pursuant to the definition thereof on any given day, the interest rate on Base Rate Loans shall be determined by the TCF Administrative Agent without reference to clause (c) of the definition of "Base Rate" until the TCF Administrative Agent revokes such determination.

5.3. Increased Costs

- (a) If any Change in Law shall (i) (A) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Senior Lender, (B) subject the TCF Administrative Agent or any Senior Lender or any other recipient of any payment to be made by or on account of any Obligation of the Borrower to any Taxes (other than (x) Indemnified Taxes, (y) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (z) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, or (C) impose on any Senior Lender any other condition, cost or expense (other than Taxes) affecting this Agreement or Construction/Term Loans made by such Senior Lender, and (ii) the result of any of the foregoing shall be to increase the cost to such Person of making, converting to, continuing or maintaining any Construction/Term Loan to the Borrower or to reduce the amount of any sum received or receivable by such Person hereunder (whether of principal, interest or any other amount), then the Borrower will pay to such Person such additional amount or amounts as will compensate such Person for such additional costs incurred or reduction suffered (except to the extent the Borrower is excused from payment pursuant to Section 5.4).
- (b) If any Senior Lender reasonably determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Senior Lender's capital or (without duplication) on the capital of such Senior Lender's holding company, if any, as a consequence of this Agreement or any of the Construction/Term Loans made by such Senior Lender, to a level below that which such Senior Lender, or its holding company, could have achieved but for such Change in Law (taking into consideration such Senior Lender's policies and the policies of its holding company with respect to capital adequacy and liquidity), then from time to time upon notice by such Senior Lender, the Borrower shall pay within ten Business Days following the receipt of such notice to such Senior Lender such additional amount or amounts as will compensate such Senior Lender or (without duplication) such Senior Lender's holding company in full for any such reduction suffered (except to the extent the Borrower is excused from payment pursuant to Section 5.4). In determining such amount, such Senior Lender may use any method of averaging and attribution that it (in its sole discretion) shall deem appropriate.
- (c) To claim any amount under this Section 5.3, the TCF Administrative Agent or a Senior Lender, as applicable, shall promptly deliver to the Borrower (with a copy to the TCF Administrative Agent) a certificate setting forth in reasonable detail the amount or amounts necessary to compensate the TCF Administrative Agent, Senior Lender or its holding company, as the case may be, under Section 5.3(a) or Section 5.3(b), which shall be conclusive absent manifest error. The Borrower

shall pay the TCF Administrative Agent or Senior Lender, as applicable, the amount shown as due on any such certificate within ten Business Days after receipt thereof.

- (d) Promptly after the TCF Administrative Agent or Senior Lender, as applicable, has determined that it will make a request for increased compensation pursuant to this Section 5.3, such Person shall notify the Borrower thereof (with a copy to the TCF Administrative Agent). Failure or delay on the part of the TCF Administrative Agent or Senior Lender to demand compensation pursuant to this Section 5.3 shall not constitute a waiver of such Person's right to demand such compensation; provided, that the Borrower shall not be required to compensate a Person pursuant to this Section 5.3 for any increased costs or reductions attributable to the failure of such Person to notify Borrower within 225 days after the Change in Law giving rise to those increased costs or reductions of such Person's intention to claim compensation for those circumstances; provided, further, that, if the Change in Law giving rise to those increased costs or reductions is retroactive, then the 225-day period referred to above shall be extended to include that period of retroactive effect.
- (e) Notwithstanding any other provision in this Agreement, no Senior Lender shall demand compensation pursuant to this Section 5.3 in respect of the Change in Law arising from the matters described in the proviso to the definition of "Change in Law" if it shall not at the time be the general policy or practice of such Senior Lender, as determined by such Senior Lender, to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any. For the avoidance of doubt, this clause (e) shall not impose an obligation on a Senior Lender to provide information regarding compensation claimed and/or paid under any other specific loan agreement; provided, that such Senior Lender shall, upon request from the Borrower, provide a written confirmation to the Borrower regarding whether it is the general policy or practice of such Senior Lender, as the case may be, to demand such compensation in similar circumstances under comparable provisions of other credit agreements.

5.4. Obligation to Mitigate; Replacement of Lenders

- (a) If any Senior Lender requests compensation under Section 5.3, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Senior Lender or any Government Authority for the account of any Senior Lender pursuant to Section 5.6, then such Senior Lender shall use reasonable efforts to designate a different lending or issuing office for funding or booking its Construction/Term Loans hereunder to assign its rights and obligations under the TCF Financing Documents to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Senior Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.3 or Section 5.6, as applicable, in the future and (ii) would not subject such Senior Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Senior Lender or violate any applicable Government Rule. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Senior Lender in connection with any such designation or assignment.

- (b) Subject to Section 5.4(d), if any Senior Lender requests compensation under Section 5.3, or if the Borrower is required to pay any Indemnified Taxes or additional amount to any Senior Lender or any Government Authority for the account of any Senior Lender pursuant to Section 5.6 and, in each case, such Senior Lender has declined or is unable to designate a different lending or issuing office or to make an assignment in accordance with Section 5.4(a), or if any Senior Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice in writing to such Senior Lender and the TCF Administrative Agent, request such Senior Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 14.4), all (but not less than all) its interests, rights (other than its existing rights to payments pursuant to Section 5.3, Section 5.5 or Section 5.6) and obligations under this Agreement (including all of its Construction/Term Loans and Construction/Term Loan Commitments) to an Eligible Assignee that shall assume such obligations (which assignee may be another Senior Lender, if a Senior Lender accepts such assignment); provided, that (i) the Borrower shall have received the prior written consent of the TCF Administrative Agent, (ii) such Senior Lender shall have received payment of an amount equal to all Obligations of the Borrower owing to such Senior Lender from such assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other Obligations), (iii) in the case of any such assignment resulting from a claim for compensation under Section 5.3 or payments required to be made pursuant to Section 5.6, such assignment will result in the elimination or reduction of such compensation or payments, and (iv) such assignment does not conflict with any applicable law binding upon or to which such Senior Lender is subject. A Senior Lender shall not be required to make any such assignment and delegation if, as a result of a waiver by such Senior Lender of its rights under Section 5.3 or Section 5.6, as applicable, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply.
- (c) If any Senior Lender (such Senior Lender, a **Non-Consenting Lender**) has failed to consent to a proposed amendment, waiver, consent or termination which, pursuant to the terms of Section 14.1, requires the consent of all of the Senior Lenders or all of the affected Senior Lenders and with respect to which the Majority Senior Lenders or the Majority Affected Lenders (as applicable), shall have granted their consent, then the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) to replace all such Non-Consenting Lenders by requiring such Non-Consenting Lenders to assign all their Construction/Term Loans and all their Construction/Term Loan Commitments to one or more Eligible Assignees; provided, that (i) all Non-Consenting Lenders must be replaced with one or more Eligible Assignees that grant the applicable consent, (ii) all Obligations of the Borrower owing to such Non-Consenting Lenders being replaced shall be paid in full to such Non-Consenting Lenders concurrently with such assignment, and (iii) the replacement Senior Lenders shall purchase the foregoing by paying to such Non-Consenting Lenders a price equal to the amount of such Obligations. In connection with any such assignment, the Borrower, the TCF Administrative Agent, such Non-Consenting Lenders and the replacement Senior Lenders shall otherwise comply with Section 14.4.

- (d) As a condition of the right of the Borrower to remove any Senior Lender pursuant to Section 5.4(b) and Section 5.4(c), the Borrower may, at the Borrower's own cost and expense, arrange for the assignment or novation of any Senior Secured IR Hedge Agreements with such Senior Lender or any of its Affiliates within twenty Business Days after such removal; provided, that such Senior Lender (or its Affiliate, as applicable) shall use commercially reasonable efforts to promptly effectuate any such assignment or novation.

5.5. Funding Losses

In the event of (a) the payment of any principal of any SOFR Loan other than on the ~~Quarterly Payment~~ **Monthly Transfer** Date therefor (including as a result of an Event of Default), (b) the conversion of any SOFR Loan other than on the ~~Quarterly Payment~~ **Monthly Transfer** Date therefor (including as a result of an Event of Default), (c) the failure to borrow, convert, continue or prepay any SOFR Loan on the date specified in any notice delivered pursuant hereto, (d) the assignment of any SOFR Loan other than on the ~~Quarterly Payment~~ **Monthly Transfer** Date therefor as a result of a request by the Borrower pursuant to Section 5.4, or (e) any default in the making of any payment or prepayment required to be made hereunder, then, in any such event, the Borrower shall compensate each Senior Lender for the loss, cost and expense attributable to such event, including any loss, cost or expense arising from the liquidation or redeployment of funds or from any fees payable. A certificate of any Senior Lender setting forth any amount or amounts that such Senior Lender is entitled to receive pursuant to this Section 5.5 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay to the TCF Administrative Agent for the benefit of the applicable Senior Lender the amount due and payable and set forth on any such certificate within ten Business Days after receipt thereof.

5.6. Taxes

- (a) Defined Terms. For purposes of this Section 5.6, the term "Government Rule" includes FATCA.
- (b) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any TCF Financing Document shall be made without deduction or withholding for any Taxes, except as required by Government Rules. If any Government Rule (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Government Authority in accordance with Government Rules and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.6) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.
- (c) Payment of Other Taxes by Borrower. The Borrower shall timely pay to the relevant Government Authority in accordance with Government Rules, or at the

option of the TCF Administrative Agent timely reimburse it for the payment of, any Other Taxes.

- (d) Indemnification by Borrower. The Borrower shall indemnify each Recipient, within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.6) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Senior Lender (with a copy to the TCF Administrative Agent), or by the TCF Administrative Agent on its own behalf or on behalf of a Senior Lender, shall be conclusive absent manifest error.
- (e) Indemnification by the Senior Lenders. Each Senior Lender shall severally indemnify the TCF Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes attributable to such Senior Lender (but only to the extent that the Borrower has not already indemnified the TCF Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Senior Lender's failure to comply with the provisions of Section 14.4(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Senior Lender, in each case, that are payable or paid by the TCF Administrative Agent in connection with any TCF Financing Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to any Senior Lender by the TCF Administrative Agent shall be conclusive absent manifest error. Each Senior Lender hereby authorizes the TCF Administrative Agent to set off and apply any and all amounts at any time owing to such Senior Lender under any TCF Financing Document or otherwise payable by the TCF Administrative Agent to the Senior Lender from any other source against any amount due to the TCF Administrative Agent under this Section 5.6.
- (f) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Government Authority pursuant to this Section 5.6, the Borrower shall deliver to the TCF Administrative Agent the original or a certified copy of a receipt issued by such Government Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the TCF Administrative Agent.
- (g) Status of Lenders.
 - (i) Any Senior Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any TCF Financing Document shall deliver to the Borrower and the TCF Administrative Agent, at the time or times reasonably requested by the Borrower or the TCF Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the TCF

Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Senior Lender, if reasonably requested by the Borrower or the TCF Administrative Agent, shall deliver such other documentation prescribed by Government Rules or reasonably requested by the Borrower or the TCF Administrative Agent as will enable the Borrower or the TCF Administrative Agent to determine whether or not such Senior Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (A), (B), and (D) of Section 5.6(g)(ii)) shall not be required if in the Senior Lender's reasonable judgment such completion, execution or submission would subject such Senior Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Senior Lender.

- (ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,
 - (A) Any Senior Lender that is a U.S. Person shall deliver to the Borrower and the TCF Administrative Agent on or about the date on which such Senior Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the TCF Administrative Agent), executed copies of IRS Form W-9 certifying that such Senior Lender is exempt from U.S. federal backup withholding tax;
 - (B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the TCF Administrative Agent (in such number of copies as shall be requested by the Recipient) on or about the date on which such Foreign Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the TCF Administrative Agent), whichever of the following is applicable:
 - (1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any TCF Financing Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any TCF Financing Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

- (2) executed copies of IRS Form W-8ECI;
 - (3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code (a “**U.S. Tax Compliance Certificate**”) and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or
 - (4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, or other certification documents from each beneficial owner, as applicable; provided, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;
- (C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the TCF Administrative Agent (in such number of copies as shall be requested by the Recipient) on or about the date on which such Foreign Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the TCF Administrative Agent), executed copies of any other form prescribed by Government Rules as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Government Rules to permit the Borrower or the TCF Administrative Agent to determine the withholding or deduction required to be made; and
- (D) if a payment made to a Senior Lender under any TCF Financing Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Senior Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Senior Lender shall deliver to the Borrower and the TCF Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the

Borrower or the TCF Administrative Agent such documentation prescribed by Government Rules (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the TCF Administrative Agent as may be necessary for the Borrower and the TCF Administrative Agent to comply with their obligations under FATCA and to determine that such Senior Lender has complied with such Senior Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

- (iii) Each Senior Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the TCF Administrative Agent in writing of its legal inability to do so.
- (h) Status of TCF Administrative Agent. The TCF Administrative Agent (and any successor or supplemental TCF Administrative Agent on the date it becomes the TCF Administrative Agent) shall provide the Borrower with two duly completed original copies of, if it is not a U.S. Person, IRS Form W-8ECI or W-8BEN-E with respect to payments to be received by it as a beneficial owner and, if applicable, IRS Form W-8IMY (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Senior Lenders, and shall update such forms periodically upon the reasonable request of the Borrower. In the event that the TCF Administrative Agent is a U.S. Person that is not a corporation, the TCF Administrative Agent shall provide the Borrower with two duly completed original copies of IRS Form W-9.
- (i) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.6 (including by the payment of additional amounts pursuant to this Section 5.6), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.6 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Government Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 5.6(i) (plus any penalties, interest or other charges imposed by the relevant Government Authority) in the event that such indemnified party is required to repay such refund to such Government Authority. Notwithstanding anything to the contrary in this Section 5.6(i), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.6(i) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax

had never been paid. This Section 5.6(i) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

- (j) Survival. Each party's obligations under this Section 5.6 shall survive the resignation or replacement of the TCF Administrative Agent or any assignment of rights by, or the replacement of, a Senior Lender, the termination of the Construction/Term Loan Commitment, and the repayment, satisfaction or discharge of all obligations under any TCF Financing Document.

5.7. Benchmark Replacement Setting.

- (a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other TCF Financing Document, upon the occurrence of a Benchmark Transition Event, the TCF Administrative Agent and the Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the TCF Administrative Agent has posted such proposed amendment to all affected Senior Lenders and the Borrower so long as the TCF Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Majority Senior Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 5.7(a) will occur prior to the applicable Benchmark Transition Start Date. No Senior Secured IR Hedge Agreement shall be deemed to be a "TCF Financing Document" for purposes of this Section 5.7.
- (b) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the TCF Administrative Agent will have the right to make Conforming Changes from time to time (in consultation with the Borrower) and, notwithstanding anything to the contrary herein or in any other TCF Financing Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other TCF Financing Document.
- (c) Notices; Standards for Decisions and Determinations. The TCF Administrative Agent will promptly notify the Borrower and the Senior Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The TCF Administrative Agent will notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to this Section 5.7, and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the TCF Administrative Agent or, if applicable, any Senior Lender (or group of Senior Lenders) pursuant to this Section 5.7, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding

absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other TCF Financing Document, except, in each case, as expressly required pursuant to this Section 5.7.

- (d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other TCF Financing Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the TCF Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the TCF Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the TCF Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.
- (e) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (i) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (ii) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans immediately. During a Benchmark Unavailability Period ~~or at any time that a tenor for the then-current Benchmark is not an Available Tenor~~, the component of Base Rate based upon the then-current Benchmark ~~or such tenor for such Benchmark, as applicable~~, will not be used in any determination of Base Rate.

6. REPRESENTATIONS AND WARRANTIES

6.1. General

- (a) The Borrower makes each representation and warranty set forth in Article 3 (*Representations and Warranties*) of the Common Terms Agreement on the Closing Date to, and in favor of, the TCF Administrative Agent and each of the Senior Lenders.
- (b) The Borrower makes each representation and warranty set forth in this Article 6 on the Closing Date to, and in favor of, the TCF Administrative Agent, each of the Senior Lenders and each other Party hereto.

- (c) All of the representations and warranties set forth in this Article 6 shall survive the Closing Date, and except as provided below, shall be deemed to be repeated by the Borrower on the date of each Construction/Term Loan Borrowing and the Term Conversion Date, in each case, to and in favor of the TCF Administrative Agent, each of the Senior Lenders and each other Party hereto.

6.2. Existence

- (a) The Borrower is a limited liability company duly formed, validly existing, and in good standing under the laws of the State of Texas.
- (b) As of the Closing Date, each RG Facility Entity is a limited liability company duly formed, validly existing and in good standing under the laws of the state of Delaware and is in good standing and authorized to do business under the laws of the State of Texas.

6.3. Financial Condition

The financial statements of the Borrower furnished to the P1 Intercreditor Agent pursuant to Section 6.1 *Financial Statements* of the Common Terms Agreement (or pursuant to Section 7.1(d) or Section 10.1 of this Agreement), fairly present in all material respects the financial condition of the Borrower as of the date thereof, all in accordance with GAAP (subject to normal year-end adjustments and footnote disclosure in the case of interim financial statements).

6.4. Action

- (a) The Borrower has the power and authority to execute and deliver, and to perform its obligations under, the Credit Agreement Transaction Documents to which it is a party, including the granting of security interests and Liens pursuant to the Senior Security Documents, in each case to which it is a party. The execution, delivery and performance by the Borrower of each of the Credit Agreement Transaction Documents to which it is a party have been duly authorized by all necessary limited liability company action on the part of the Borrower. Each of the Credit Agreement Transaction Documents to which the Borrower is a party has been duly executed and delivered by the Borrower. Assuming that each TCF Financing Document has been duly executed and delivered by each party thereto other than the Borrower, each TCF Financing Document is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws. As of the Closing Date, assuming that each Material Project Document has been duly executed and delivered by each party thereto other than the Borrower, each Material Project Document is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.
- (b) As of the Closing Date, (i) each of the RG Facility Entities has the power and authority to execute and deliver, and to perform its obligations under, the Credit

Agreement Transaction Documents to which it is a party, including the granting of security and liens pursuant to the Senior Security Documents, in each case to which any such RG Facility Entity is a party, (ii) the execution, delivery, and performance by each of the RG Facility Entities of each of the Credit Agreement Transaction Documents to which it is a party have been duly authorized by all necessary limited liability company action on the part of such RG Facility Entity, (iii) each of the Credit Agreement Transaction Documents to which any RG Facility Entity is a party has been duly executed and delivered by such RG Facility Entity, and (iv) assuming that each Credit Agreement Transaction Document to which an RG Facility Entity is a party has been duly executed and delivered by each other party thereto, such Credit Agreement Transaction Document is in full force and effect and constitutes the legal, valid and binding obligation of such RG Facility Entity, enforceable against such RG Facility Entity in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

6.5. No Breach

- (a) The execution, delivery, and performance by the Borrower of each of the TCF Financing Documents to which it is or will become a party, and the execution, delivery, and performance by the Borrower of each of the Material Project Documents to which it is or will become a party, do not and will not:
 - (i) conflict with its Organic Documents and its Organic Documents do not prevent execution, delivery, or performance by it of the TCF Financing Documents to which it is a party;
 - (ii) violate any provision of any Government Rule applicable to the Borrower, the Rio Grande Facility, the Project, or the Development, except in the case of this subclause (ii), where such violation could not reasonably be expected to have a Material Adverse Effect; or
 - (iii) result in, or create any Lien (other than a Permitted Lien) upon or with respect to any of the Properties now owned or hereafter acquired by the Borrower.
- (b) As of the Closing Date, the execution, delivery, and performance by each RG Facility Entity of each of the Consent Agreements to which it is a party, and the execution, delivery, and performance by each of the RG Facility Entities of each of the Material Project Documents to which it is a party does not:
 - (i) conflict with its Organic Documents and its Organic Documents do not prevent execution, delivery, or performance by it of the Consent Agreements to which it is a party;
 - (ii) violate any provision of any Government Rule applicable to such RG Facility Entity, the Rio Grande Facility, the Project, or the Development, except in the case of this subclause (ii), where such violation could not reasonably be expected to have a Material Adverse Effect; or

- (iii) result in, or create any Lien (other than an RG Facility Entity Permitted Lien) upon or with respect to any of the Properties now owned or hereafter acquired by such RG Facility Entity.

6.6. Government Approvals; Government Rules

As of the Closing Date:

- (a) no material Government Approvals are required for the Development except for (i) the DOE Export Authorization, the FERC Authorization, and those Government Approvals set forth on Schedule 6.6(b), Schedule 6.6(c), and Schedule 6.6(e), and (ii) those Government Approvals that may be required as a result of the exercise of remedies under the TCF Financing Documents;
- (b) all Material Government Approvals for the Development set forth on Schedule 6.6(b) (i) have been duly obtained, (ii) are in full force and effect, (iii) are final and Non-Appealable pursuant to any right of appeal set out in the Government Rules pursuant to which such Government Approval was issued (other than the FERC Remand Order and such Material Government Approvals which do not have limits on rehearing or appeal periods under Government Rule), (iv) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(b), and (v) are free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;
- (c) all Material Government Approvals for the Development set forth on Schedule 6.6(c) (i) have been duly obtained, (ii) are in full force and effect, (iii) are not the subject of any pending rehearing or appeal to the issuing agency and all applicable fixed time periods for rehearing or appeal to the issuing agency have expired (other than in the case of any such Material Government Approvals that do not have limits on rehearing or appeal periods); provided, that the statutory periods for rehearing requests and FERC action on rehearing in respect of the FERC Remand Order need not have expired, (iv) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(c), and (v) are free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect ;
- (d) each of the DOE Export Authorization and FERC Authorization (i) has been duly obtained, (ii) is in full force and effect, (iii) is held in the name of the Borrower, (iv) is not the subject of any pending rehearing or appeal by or to DOE/FE, (v) is final and non-appealable (other than with respect to the FERC Remand Order),

and (vi) is free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to so satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;

- (e) (i) all Material Government Approvals not obtained as of the Closing Date but necessary for the Development (including the sale of LNG) to be obtained by the Borrower or for the benefit of the Project by third parties as allowed pursuant to Government Rule are set forth on Schedule 6.6(e) and (ii) the Borrower reasonably believes that all Material Government Approvals set forth on Schedule 6.6(e) will be obtained in due course on or prior to the commencement of the appropriate stage of the Development for which such Material Government Approvals would be required, free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of the Development, except to the extent that a failure to so satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect;
- (f) Except as set forth on Schedule 6.7, there is no action, suit, or proceeding pending, or to the Borrower's Knowledge threatened in writing, that could reasonably be expected to result in the materially adverse modification, rescission, termination, or suspension of any Material Government Approval;
- (g) the Borrower has not received any notice from any Government Authority asserting that any information set forth in any application submitted by or on behalf of it in connection with any Material Government Approval was inaccurate or incomplete such that it could reasonably be expected to have a Material Adverse Effect and, to its Knowledge, there has not been any such inaccurate or incomplete application that could reasonably be expected to have a Material Adverse Effect; and
- (h) there is no existing default by the Borrower under any applicable order, writ, injunction or decree of any Government Authority or arbitral tribunal, that could reasonably be expected to have a Material Adverse Effect.

6.7. Proceedings

As of the Closing Date, except as set forth in Schedule 6.7 and other than Environmental Claims (to which Section 6.8(h) shall apply), there is no pending, or to the Borrower's Knowledge, threatened in writing, litigation, investigation, action or proceeding, of or before any court, arbitrator or Government Authority which has a reasonable likelihood of being adversely determined and, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

6.8. Environmental Matters

As of the Closing Date, except as set forth in Schedule 6.8:

- (a) except as could not reasonably be expected to result in a Material Adverse Effect, the Borrower and the Project are, and have been, in compliance with all applicable Environmental Laws;
- (b) there are no past or present facts, circumstances, conditions, events, or occurrences, including Releases of Hazardous Materials by the Borrower or with respect to the Project or any Land on which the Project is located, that could reasonably be expected to give rise to any Environmental Claims that could reasonably be expected to have a Material Adverse Effect or cause the Project to be subject to any restrictions on ownership, occupancy, use or transferability under any Environmental Laws that could reasonably be expected to have a Material Adverse Effect (excluding restrictions on the transferability of Government Approvals upon the transfer of ownership of assets subject to such Government Approval);
- (c) Hazardous Materials have not at any time been Released at, on, under or from the Project, or any Land on which it is situated, by the Borrower or, to the Knowledge of the Borrower, other Persons, other than in material compliance at all times with all applicable Environmental Laws or in a manner that could not reasonably be expected to result in a Material Adverse Effect;
- (d) No Environmental and Social Incident has occurred that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect;
- (e) there have been no material environmental investigations, studies, audits, reviews or other analyses relating to environmental site conditions that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect and that have been conducted by, or that are in the possession or control of, the Borrower in relation to the Project, or any Land on which it is situated, that have not been provided to the P1 Collateral Agent;
- (f) the Borrower has not received any letter or request for information under Section 104 of CERCLA, or comparable state laws, and to the Knowledge of the Borrower, none of the operations of the Borrower is the subject of any investigation by a Government Authority evaluating whether any remedial action is needed to respond to a Release or threatened Release of any Hazardous Materials relating to the Project, or any Land on which it is situated, or at any other location, including any location to which the Borrower has transported, or arranged for the transportation of, any Hazardous Materials with respect to the Development, which, in each case above, could reasonably be expected to have a Material Adverse Effect;
- (g) the Development is in compliance in all material respects with the applicable requirements of the Environmental and Social Action Plan and the Equator Principles;
- (h) except as set forth in Schedule 6.8, there is no pending, or to the Borrower's Knowledge, threatened in writing, Environmental Claim against the Borrower, the Rio Grande Facility, the Project, or the Development, in each case that has a

reasonable likelihood of being adversely determined and, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

- (i) the Borrower has not received any notice from any Government Authority asserting that any information set forth in any application submitted by or on behalf of it in connection with any Material Government Approval under Environmental Laws was inaccurate or incomplete that could reasonably be expected to have a Material Adverse Effect and, to its Knowledge, there has not been any such inaccurate or incomplete application that could reasonably be expected to have a Material Adverse Effect; and
- (j) there is no existing default by the Borrower under any applicable order, writ, injunction or decree of any Government Authority or arbitral tribunal, in each case, under Environmental Laws, that could reasonably be expected to have a Material Adverse Effect.

6.9. Taxes

The Borrower has timely filed or caused to be filed all material tax returns that are required to be filed, and has paid (i) all taxes shown to be due and payable on such returns or on any material assessments made against the Borrower or any of its Property and (ii) all other material Taxes imposed on the Borrower or its Property by any Government Authority (other than Taxes the payment of which are not yet due, giving effect to any applicable extensions or the permitted period for payment prior to the Tax becoming delinquent or incurring interest or penalties, or which are being Contested), and no tax Liens (other than Permitted Liens) have been filed and no material actions, suits, proceedings, investigations, audits, or claims are being asserted with respect to any such Taxes (other than claims which are being Contested).

6.10. Tax Status

The Borrower is a limited liability company that is treated as a partnership or an entity disregarded for U.S. federal, state and local income tax purposes as separate from its owner and not an association taxable as a corporation, and neither the execution or delivery of any TCF Financing Document nor the consummation of any of the transactions contemplated thereby shall affect such status.

6.11. ERISA; ERISA Event

- (a) The Borrower does not employ any current or former employees.
- (b) The Borrower does not sponsor, maintain, administer, contribute to, participate in, or have any obligation to contribute to, or any liability under, any Plan, Pension Plan or Multiemployer Plan nor has the Borrower established, sponsored, maintained, administered, contributed to, participated in, or had any obligation to contribute to or liability under any Plan, Pension Plan or Multiemployer Plan including any liability of any ERISA Affiliate, other than joint and several contingent liability of an ERISA Affiliate that is not material and is not reasonably expected to be imposed on the Borrower.

- (c) No ERISA Event has occurred or is reasonably expected to occur, in each case, that could reasonably be expected to result in a Material Adverse Effect.

6.12. Nature of Business

The Borrower has not and is not engaged in any business other than the Development and the development of the Rio Grande Facility as contemplated by the Credit Agreement Transaction Documents then in effect and expansions to or modifications of the Rio Grande Facility and any activities incidental thereto made in accordance with the CFAA.

6.13. Senior Security Documents

Other than with respect to ~~real property~~ **Real Estate** (as to which Section 6.22 shall apply) the Borrower owns good and valid title to all of its property, free and clear of all Liens other than Permitted Liens. The provisions of the Senior Security Documents are effective to create, in favor of the P1 Collateral Agent for the benefit of the Senior Secured Parties, a legal, valid and enforceable perfected first priority Lien on and security interest in all of the Collateral purported to be covered thereby (subject to Permitted Liens and any exceptions permitted under the P1 Collateral Documents).

6.14. Subsidiaries

The Borrower has no Controlled Subsidiaries other than the RG Facility Entities (during any period when such RG Facility Entities remain Controlled Subsidiaries of the Borrower).

6.15. Investment Company Act of 1940

The Borrower is not, and after giving effect to the issuance of the Senior Secured Debt and the application of proceeds of the Senior Secured Debt in accordance with the provisions of the TCF Financing Documents will not be, an “investment company” required to be registered under the Investment Company Act of 1940.

6.16. Energy Regulatory Status

As of the Closing Date:

- (a) the Borrower is not subject to regulation as a “natural-gas company” as such term is defined in the Natural Gas Act;
- (b) the Borrower is not subject to regulation under PUHCA;
- (c) the Borrower is not subject to regulation under the Texas Utilities Code (Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 et seq (Vernon 2007 & Supp. 2021) (“**PURA**”)) and the PUCT Substantive Rules of the State of Texas as a “public utility”, or subject to rate regulation in the same manner as a “public utility”;
- (d) the Borrower is not subject to regulation as a “gas utility” or be subject to rate regulation in the same manner as a “gas utility” pursuant to the Texas Utilities

Code (Gas Utility Regulatory Act, Tex. Util. Code Ann §§101.001 et seq (Vernon 2007 & Supp. 2013) ("**GURA**"));

- (e) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party will, solely by virtue of the execution and delivery of the TCF Financing Documents, the consummation of the transactions contemplated by the TCF Financing Documents, and the performance of obligations under the TCF Financing Documents, be or become subject to regulation as a "natural-gas company" as such term is defined in the Natural Gas Act;
- (f) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party will, solely by virtue of the execution and delivery of the TCF Financing Documents, the consummation of the transactions contemplated by the TCF Financing Documents, and the performance of obligations under the TCF Financing Documents, be or become subject to regulation under PUHCA;
- (g) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party, solely by virtue of the execution and delivery of the TCF Financing Documents, the consummation of the transactions contemplated by the TCF Financing Documents, and the performance of obligations under the TCF Financing Documents shall be or become with respect to rates subject to regulation under PURA and the PUCT Substantive Rules of the State of Texas as a "public utility," or be subject to regulation in the same manner as a "public utility"; and
- (h) none of the P1 Intercreditor Agent, the P1 Collateral Agent or any other Senior Secured Party, solely by virtue of the execution and delivery of the TCF Financing Documents, the consummation of the transaction contemplated by the TCF Financing Documents, and the performance of obligations under the TCF Financing Documents shall be or become subject to regulation under the definitions of a "gas utility" contained in GURA or be subject to rate regulation in the same manner as a "gas utility" as long as those entities are not trustees or receivers of a gas utility.

6.17. Material Project Documents; Other Documents

As of the Closing Date:

- (a) set forth in Schedule 6.17 is a list of each Material Project Document including all amendments, amendments and restatements, supplements, waivers and interpretations modifying or clarifying any of the above, true, correct and complete copies of which have been delivered to the P1 Intercreditor Agent and each Senior Secured Debt Holder Representative and certified by an Authorized Officer of the Borrower;
- (b) each of the Material Project Documents is in full force and effect (assuming due execution, authorization, and delivery by the parties thereto other than the Borrower), and none of such Material Project Documents has been terminated or otherwise amended, modified, supplemented, transferred, Impaired or, to the

Borrower's Knowledge, assigned, except as indicated on Schedule 6.17 or as permitted by the terms of the TCF Financing Documents;

- (c) the Borrower is not in default under any Material Project Document to which it is a party. To the Borrower's Knowledge, no default by any other Material Project Party exists under any provision of any such Material Project Document, except for such defaults that could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;
- (d) there are no material contracts necessary for the current stage of the Development other than the Material Project Documents, the other Project Documents made available to the Senior Lenders at least three Business Days prior to the Closing Date (or such shorter date as may be agreed to by the TCF Administrative Agent in its reasonable discretion), and the TCF Financing Documents; and
- (e) all conditions precedent to the effectiveness of the Material Project Documents that have been executed on or prior to the Closing Date have been satisfied or waived.

6.18. Regulations T, U and X

The Borrower is not engaged principally, or as one of its principal activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (as defined or used in Regulations T, U or X of the Board of Governors of the Federal Reserve System, or any regulations, interpretations or rulings thereunder) and no part of the proceeds of the Construction/Term Loans will be used to purchase or carry any such margin stock or to extend credit to others for the purpose of purchasing or carrying any such margin stock or otherwise in violation of Regulations T, U or X of the Board of Governors of the Federal Reserve System, or any regulations, interpretations or rulings thereunder, or any regulations substituted therefore, as from time to time in effect.

6.19. Patents, Trademarks, Etc.

The Borrower has obtained and holds in full force and effect all material patents, trademarks, copyrights or adequate licenses therein that are necessary for its portion of the Development except for such items which are not required in light of the applicable stage of Development. The Borrower reasonably believes that (i) it will be able to obtain such items that have not been obtained as of the date on which this representation and warranty is made or deemed repeated on or prior to the relevant stage of Development and (ii) no such items will contain any condition or requirements which the Borrower does not expect to be able to satisfy, in each case of clauses (i) and (ii), without material cost to the Borrower and in a manner that could not reasonably be expected to have a Material Adverse Effect.

6.20. Disclosure

Except as otherwise disclosed by the Borrower in writing on or prior to the Closing Date, neither this Agreement nor any TCF Financing Document nor any reports, financial statements, certificates or other written information furnished to the Senior Lenders by or on behalf of the Borrower in connection with the negotiation of, and the extension of

credit under the TCF Financing Documents and the transactions contemplated by the Material Project Documents or delivered to the P1 Intercreditor Agent, any Consultant, or the Senior Lenders or the TCF Administrative Agent (or their respective counsel), when taken as a whole, contains, as of the Closing Date, any untrue statement of a material fact pertaining to the Borrower, the Pledgor, any RG Facility Entity, or the Project, or omits to state a material fact pertaining to the Borrower, the Pledgor, any of the RG Facility Entities, or the Project necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading, in any material respect; provided, that (a) with respect to any projected financial information, forecasts, estimates, or forward-looking information, information of a general economic or general industry nature or pro forma calculation made in the Construction Budget and Schedule, this Agreement, the Base Case Forecast, including with respect to the start of operations of the Project, the Term Conversion Date, final capital costs or operating costs of the Development, oil prices, Gas prices, LNG prices, electricity prices, Gas reserves, rates of production, Gas market supplies, LNG market demand, exchange rates or interest rates, rates of taxation, rates of inflation, transportation volumes or any other forecasts, projections, assumptions, estimates or pro forma calculations, the Borrower represents only that such information was based on assumptions made in good faith and believed to be reasonable at the time made in light of the legal and factual circumstances then applicable to the Borrower and the Project, and the Borrower makes no representation as to the actual attainability of any projections set forth in the Base Case Forecast, the Construction Budget and Schedule, or any such other items listed in this clause (a) and (b) **and** the Borrower makes no representation with respect to any information or material provided by a Consultant (except to the extent such information or material originated with the Borrower).

6.21. Absence of Default

No Default or Event of Default has occurred and is continuing.

6.22. Real Property

The Real Property Interests constitute good and valid interests in and to the Site pursuant to the Real Property Documents, in each case as is necessary for the Development at the time this representation and warranty is made or deemed repeated.

6.23. Solvency

As of the Closing Date, the Borrower is and, upon the incurrence of any Obligations, and after giving effect to the transactions and the incurrence of Indebtedness in connection therewith, will be, Solvent.

6.24. Legal Name and Place of Business

As of the Closing Date:

- (a) the full and correct legal name, type of organization and jurisdiction of organization of the Borrower is: Rio Grande LNG, LLC, a limited liability company organized and existing under the laws of the State of Texas;

- (b) the Borrower has never changed its name or location (as defined in Section 9-307 of the UCC), except as indicated in Schedule 4.1 of the P1 Security Agreement; and
- (c) the chief executive office of the Borrower is 1000 Louisiana Street,³9th Floor, Houston, Texas 77002.

6.25. No Force Majeure

As of the Closing Date, no event of force majeure or other event or condition exists which (a) provides any Material Project Party the right to cancel or terminate any Material Project Document to which it is a party in accordance with the terms thereof or (b) provides any Material Project Party the right to suspend its performance (or be excused of any liability) under any Material Project Document to which it is a party in accordance with the terms thereof, which suspension (or excuse) could reasonably be expected to result in the Project failing to achieve the Project Completion Date on or before the Date Certain.

6.26. Ranking

Other than with respect to Indebtedness referred to in clause (c) of the definition of Credit Agreement Permitted Indebtedness (solely in respect of assets financed by such Indebtedness), the TCF Financing Documents and the obligations evidenced thereby (a) are and will at all times be direct and unconditional general obligations of the Borrower, (b) subject to Section 4.10, rank and will at all times rank in right of payment and otherwise at least *pari passu* with all Senior Secured Debt, and (c) are and at all times will be senior in right of payment to all other Indebtedness of the Borrower (other than Senior Secured Debt) whether now existing or hereafter outstanding.

6.27. Labor Matters

As of the Closing Date, no strikes, lockouts, or slowdowns in connection with the Borrower, the Project or the Development exist or, to the Knowledge of the Borrower, are threatened which could reasonably be expected to have a Material Adverse Effect.

6.28. Anti-Corruption Laws, Anti-Terrorism, and Money Laundering Laws

- (a) None of the Borrower, any RG Facility Entity, or, to the Borrower's Knowledge, any director, officer or employee of the Borrower or any RG Facility Entity (i) is in violation of any Anti-Terrorism and Money Laundering Laws, (ii) is in violation of any Anti-Corruption Laws, or (iii) to the Borrower's Knowledge, has taken any action directly or indirectly that the Borrower reasonably believes gives rise to circumstances presently in existence that could constitute a violation of any Anti-Corruption Laws or Anti-Terrorism and Money Laundering Laws.
- (b) The Borrower has instituted and maintains policies and procedures, including appropriate controls, reasonably designed to promote compliance by the Borrower and the RG Facility Entities, and its and their directors, officers, employees, and authorized agents with Anti-Corruption Laws and Anti-Terrorism and Money Laundering Laws (to the extent applicable).

6.29. Sanctions

- (a) As of the Closing Date, neither the making of any Construction/Term Loan nor the use of proceeds of any Construction/Term Loan by the Borrower or the RG Facility Entities will violate or cause any violation by any Person of applicable Sanctions Regulations.
- (b) None of the Borrower nor, to the knowledge of the Borrower, any RG Facility Entity, nor any director, officer, or to the knowledge of the Borrower, employee or agent of any of the foregoing, is a Restricted Person.
- (c) The Borrower has instituted and maintains policies and procedures, including appropriate controls, reasonably designed to promote compliance by Borrower and the RG Facility Entities, and its and their directors, officers, employees, and authorized agents with Sanctions Regulations.

6.30. Accounts

The Borrower does not have, and is not the beneficiary of, any bank account other than the P1 Accounts, the Common Accounts, **and the Distribution Account (if applicable).**

6.31. No Condemnation

As of the Closing Date, no material Event of Loss or material Event of Taking of the Project or the Land has occurred or (in the case of material condemnation) is, to the Borrower's Knowledge, threatened in writing or pending.

6.32. Project Development

Based on information available to the Borrower as of any date on which this representation is made or deemed repeated, the Borrower reasonably expects that (a) Substantial Completion under each P1 EPC Contract will occur on or before the Date Certain and (b) it will receive feed gas for the Project from the Rio Bravo Pipeline, Valley Crossing Pipeline, or one or more Alternative Pipelines in volumes sufficient to comply with Section 4.6C (*Natural Gas Feed to Achieve Substantial Completion*) of the T1/T2 EPC Contract and Section 4.6C (*Natural Gas Feed to Achieve Substantial Completion*) of the T3 EPC Contract.

The term "**Alternative Pipelines**" as used in this Section 6.32 shall mean one or more alternative pipelines that the Borrower elects to substitute for the Rio Brave Pipeline or the Valley Crossing Pipeline by entering into new precedent and firm transportation agreements with respect to such Alternative Pipelines and terminating or releasing capacity under the applicable Gas Transportation Agreements with the consent of the TCF Administrative Agent (acting on instruction of Majority Senior Lenders), such consent not to be unreasonably withheld if it delivers to the TCF Administrative Agent each of the following:

- (i) executed precedent and related firm transportation agreements with one or more Persons (including Affiliates of any ~~Sponsor~~ **Equity Owner**) reflecting customary market terms and providing for firm transportation

through the Alternative Pipelines of sufficient quantities of Gas to meet the Project's LNG delivery obligations under the ~~Qualified Offtake~~ **Credit Agreement Designated** Offtake Agreements;

- (ii) to the extent that any Alternative Pipeline has not yet been constructed, a description of the funding plan proposed by the Alternative Pipeline owner and/or operator for the construction costs of such pipeline in order to achieve substantial completion thereof and a construction schedule for such pipeline (accompanied by a certification of the Borrower, to which the Independent Engineer concurs, that substantial completion of such pipeline is reasonably expected by the time at which the P1 Train Facilities will require Gas delivered through the pipelines for commissioning, start-up and/or operations); and a certification by the Borrower that such financing of the Alternative Pipeline is non-recourse to the Borrower (and, for the avoidance of doubt, the Borrower's obligations to pay a tariff and provide customary credit support under any precedent agreement or firm transportation agreement for such pipeline shall not be considered recourse for these purposes);
- (iii) evidence that all material Government Approvals from applicable Government Authorities required for **the** construction and operation of the Alternative Pipelines and storage, if any, have been obtained or, if any such pipeline has not yet been constructed, are reasonably expected to be obtained in the ordinary course when necessary without material expense or delay to the construction of such pipelines;
- (iv) a certificate of the Borrower confirming that the operator of such Alternative Pipelines and storage has substantial experience in the construction and operation of similar pipelines and storage and the Independent Engineer has concurred with such confirmation (such concurrence not to be unreasonably withheld, conditioned or delayed);
- (v) the route of the Alternative Pipelines has been determined and the rights of way to construct such pipelines have been obtained or are reasonably expected to be obtained in the ordinary course (including through eminent domain) without material expense or delay to the construction of such pipeline;
- (vi) a report from the Independent Engineer confirming reasonable compliance in all material respects by the pipeline operator with respect to the construction (if applicable) and operation of the Alternative Pipelines and storage with the Environmental and Social Action Plan and confirming the adequacy of such Alternative Pipelines and storage to meet the Project's contractual obligations under any then-existing Credit Agreement Designated Offtake Agreement (taking into account, if the developer of such Alternative Pipelines is not Affiliated with the Borrower or a Sponsor, only such information as the Borrower is able to obtain from such operator through use of commercially reasonable efforts); and

- (vii) an updated Base Case Forecast calculated on a pro forma basis giving effect to changes in operating expenses and gas transportation costs arising from the Alternative Pipeline arrangements (but applying the assumptions in the last Base Case Forecast to have been delivered for all other assumptions), demonstrates that, assuming all principal amounts of Senior Secured Debt (excluding principal amounts and Senior Secured Debt Commitments with respect to Working Capital Debt) are amortized to a zero balance by the end of the Latest Qualified Term of the Credit Agreement Designated Offtake Agreements in effect at such time, the Alternative Pipeline transportation arrangements will not result in a Credit Agreement Projected DSCR of less than 1.45:1.00 for the period commencing on the first Quarterly Payment Date for repayment of principal following such substitution to the end of the calendar year in which such Quarterly Payment Date occurs, and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) thereafter through the Latest Qualified Term of the Credit Agreement Designated Offtake Agreements.

6.33. Insurance

Except as otherwise permitted pursuant to the CFAA or otherwise pursuant to the TCF Financing Documents, the Facility Policies applicable to the Project are in full force and effect if and to the extent required to be in effect at such time.

7. CONDITIONS PRECEDENT

7.1. Conditions to Closing Date and Initial Construction/Term Loan Borrowing

The occurrence of the Closing Date and the effectiveness of the Construction/Term Loan Commitments is subject to the satisfaction of each of the following conditions precedent to the satisfaction of each of the TCF Administrative Agent and the Senior Lenders, unless, in each case, waived by each of the TCF Administrative Agent and the Senior Lenders:

- (a) Delivery of TCF Financing Documents. The TCF Administrative Agent shall have received true, correct and complete copies of the following documents, each of which shall have been duly authorized, executed and delivered by the parties thereto:
 - (i) this Agreement;
 - (ii) the Common Terms Agreement;
 - (iii) the Collateral and Intercreditor Agreement;
 - (iv) the P1 Security Agreement;
 - (v) the P1 Deed of Trust;
 - (vi) the P1 Pledge Agreement;

- (vii) the P1 Accounts Agreement;
 - (viii) the P1 Equity Contribution Agreement, and, to the extent applicable, each P1 Equity Guaranty delivered thereunder on the Closing Date;
 - (ix) the Common Accounts Agreement;
 - (x) the Common Deed of Trust;
 - (xi) the Bank Fee Letters;
 - (xii) the Fee Letters;
 - (xiii) the CFCo Deed of Trust; and
 - (xiv) any Construction/Term Loan Notes (to the extent requested by any Senior Lender at least three Business Days prior to the Closing Date).
- (b) Delivery of Material Project Documents; Consent Agreements. The TCF Administrative Agent shall have received:
- (i) true, correct and complete copies of each of the Material Project Documents (other than the Additional Material Project Documents), each of which shall have been duly authorized, executed and delivered by the parties thereto;
 - (ii) a duly executed copy of each "Notice to Proceed" under and as defined in each of the P1 EPC Contracts; and
 - (iii) the Consent Agreements listed on Schedule 7.1(b)(iii), each of which shall have been duly authorized, executed and delivered by the parties thereto.
- (c) Opinions from Counsel. The TCF Administrative Agent shall have received the following legal opinions, each in form and substance reasonably satisfactory to the TCF Administrative Agent, the P1 Collateral Agent, and the Senior Lenders (with sufficient copies thereof for each addressee):
- (i) the opinion of Latham & Watkins LLP, transaction counsel to each of the Loan Parties, the Sponsor, and each of the RG Facility Entities;
 - (ii) the opinion of K&L Gates LLP, special FERC and DOE regulatory counsel to the Borrower;
 - (iii) the opinion of Duggins Wren Mann & Romero, LLP, with respect to certain regulatory and permitting matters;
 - (iv) the opinion of King & Spalding LLP, real property and special Texas counsel to each of the Borrower and each of the RG Facility Entities;

- (v) the opinion of (A) White & Case, United Arab Emirates counsel to Mamoura Diversified Global Holding P.J.S.C. and Mubadala Treasury Holding Company LLC, (B) the opinion of White & Case, English counsel to Mamoura Diversified Global Holding P.J.S.C., Mubadala Treasury Holding Company LLC, and Mic Ti Holding Company 2 RSC Limited, and (C) the opinion of Jones Day, New York counsel to TotalEnergies Gas & Power North America, Inc., Global LNG North America Corp., and TotalEnergies Holdings SAS;
 - (vi) the substantive non-consolidation opinion of Latham & Watkins LLP, special counsel to the Borrower and each of the RG Facility Entities, with respect to the bankruptcy-remote status of the Borrower and each of the RG Facility Entities; and
 - (vii) opinions of counsel of the Material Project Parties to the Material Project Documents listed on Schedule 7.1(c)(vii).
- (d) Financial Statements. The Senior Lenders shall have received certified copies of (i) the most recent quarterly consolidated financial statements of the Borrower, which financial statements need not be audited, (ii) the most recent audited annual consolidated financial statements of the Borrower, (iii) an unaudited *pro forma* balance sheet of the Borrower as of the Closing Date (provided, that no notes shall be required to be included in such balance sheet), which balance sheet shall have been prepared giving effect (as if such events had occurred on such date) to (x) the Senior Secured Debt to be incurred on or about the Closing Date under this Agreement and any other Senior Secured Debt Instrument and the use of proceeds thereof and (y) the payment of fees and expenses in connection with the foregoing, and (iv) to the extent delivered to the Borrower, quarterly and annual financial statements of the Material Project Parties, which financial statements need not be audited or certified by the Borrower.
- (e) Government Approvals and DOE Export Authorization.
- (i) The TCF Administrative Agent shall have received evidence satisfactory to the TCF Administrative Agent and the Senior Lenders that all Material Government Approvals for the Development set forth on Schedule 6.6(b) (A) have been duly obtained, (B) are in full force and effect, (C) are final and Non-Appealable pursuant to any right of appeal set out in the Government Rules pursuant to which such Government Approval was issued (other than the FERC Remand Order and Material Government Approvals which do not have limits on rehearing or appeal periods under Government Rule), (D) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(b), and (E) are free from conditions or requirements (1) the compliance with which could reasonably be expected to have a Material Adverse Effect or (2) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of the Development, except to the extent that a failure to satisfy such condition

or requirement would not reasonably be expected to have a Material Adverse Effect.

- (ii) The TCF Administrative Agent shall have received evidence satisfactory to the TCF Administrative Agent and the Senior Lenders that all Material Government Approvals for the Development set forth on Schedule 6.6(c) (A) have been duly obtained, (B) are in full force and effect, (C) are not the subject of any pending rehearing or appeal to the issuing agency and all applicable fixed time periods for rehearing or appeal to the issuing agency have expired (other than in the case of any such Government Approvals that do not have limits on rehearing or appeal periods); provided, that the statutory periods for rehearing requests and FERC action on rehearing in respect of the FERC Remand Order need not have expired, (D) are held in the name of the Borrower or such third party as allowed pursuant to Government Rule and as specified in Schedule 6.6(c), and (E) are free from conditions or requirements (1) the compliance with which could reasonably be expected to have a Material Adverse Effect or (2) which the Borrower or, to the Borrower's Knowledge, such third party (as applicable) does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.
- (iii) The TCF Administrative Agent shall have received evidence satisfactory to the TCF Administrative Agent and the Senior Lenders that each of the DOE Export Authorization, the FERC Authorization and the FERC Remand Order (A) has been duly obtained, (B) is in full force and effect, (C) is held in the name of the Borrower, (D) is not the subject of any pending rehearing or appeal (other than the FERC Remand Order), and (E) is free from conditions or requirements (1) the compliance with which could reasonably be expected to have a Material Adverse Effect or (2) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.

(f) Project Development. The TCF Administrative Agent shall have received:

- (i) a duly executed certificate executed by an Authorized Officer of the Borrower certifying (A) that attached to such certificate is a true, correct and complete copy of the Construction Budget and Schedule, (B) that such budget and schedule have been prepared on a reasonable basis and in good faith and upon assumptions believed by the Borrower to be reasonable at the time when made and on the Closing Date, (C) that the Construction Budget and Schedule are consistent with the requirements of the Credit Agreement Transaction Documents, and (D) the Borrower is in compliance with the Environmental and Social Action Plan;
- (ii) a copy of the Base Case Forecast in form and substance reasonably satisfactory to the TCF Administrative Agent and the Senior Lenders that

demonstrates that all Construction/Term Loans shall be capable of amortization such that the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each four-Fiscal Quarter period (as of the end of each Fiscal Quarter) through the term of the Notional Amortization Period, shall not be less than 1.45:1.00 (provided, that for purposes of this Section 7.1(f)(ii), the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume that all Construction/Term Loan Commitments will be fully drawn), which shall be accompanied by a duly executed certificate executed by an Authorized Officer of the Borrower certifying (A) that the projections in the Base Case Forecast were made in good faith and (B) that the assumptions on the basis of which such projections were made were believed by the Borrower (when made and delivered) to be reasonable and consistent with the Construction Budget and Schedule and the Credit Agreement Transaction Documents;

- (iii) a due diligence report of the Independent Engineer, in final form satisfactory to the TCF Administrative Agent and the Senior Lenders, together with a reliance letter for such report;
- (iv) a due diligence report of the Market Consultant, in final form satisfactory to the TCF Administrative Agent and the Senior Lenders, together with a reliance letter for such report;
- (v) a due diligence report of Norton Rose Fulbright US LLP, as the counsel to the Senior Lenders, in final form satisfactory to the TCF Administrative Agent and the Senior Lenders;
- (vi) a report of the Environmental Advisor (including (A) the Environmental Advisor's analysis of the Borrower's compliance with the Equator Principles (and setting forth any recommendations for actions necessary to achieve compliance, if applicable), (B) assessment of climate change risks and impacts, and (C) the Environmental and Social Action Plan), in final form satisfactory to the TCF Administrative Agent and the Senior Lenders, together with a reliance letter for such report; and
- (vii) a report of the Shipping Consultant, in final form satisfactory to the TCF Administrative Agent and the Senior Lenders, together with a reliance letter for such report.

(g) Insurance.

- (i) The TCF Administrative Agent shall have received (A) a report from the Insurance Advisor, in final form satisfactory to the TCF Administrative Agent and the Senior Lenders and (B) a duly executed Insurance Advisor Closing Date Certificate, confirming that the insurance policies to be provided in connection with the Insurance Program conform to the requirements specified in the TCF Financing Documents and the Material Project Documents and that the Senior Lenders may rely on the report specified in clause (A) above.

- (ii) On or prior to the Closing Date, the Borrower shall deliver brokers letters and binders or certificates signed by the insurer or a broker, in each case in compliance with, and evidencing the existence of all insurance required to be maintained pursuant to, the Insurance Program.
- (h) Real Property and Collateral. The TCF Administrative Agent shall have received each of the following:
 - (i) the Common Title Policy;
 - (ii) the Survey;
 - (iii) copies of the Real Property Documents, as well as copies of all other real property documents necessary for the Development; and
 - (iv) consents and such other title curative documents necessary to satisfy the requirements and conditions of the Common Title Company to the issuance of the Common Title Policy or necessary or appropriate to create and perfect a first-priority Lien on and security interest over all of the Collateral (subject only to Permitted Liens).
- (i) Bank Regulatory Requirements. Each Senior Lender and the P1 Collateral Agent shall have received, or had access to, to the extent requested at least three Business Days prior to the Closing Date:
 - (i) a Beneficial Ownership Certification from the Borrower if it qualifies as a "legal entity customer" under the Beneficial Ownership Regulation; and
 - (ii) all documentation and other information required by bank regulatory authorities under applicable KYC Requirements.
- (j) Officer's Certificates. The TCF Administrative Agent shall have received the following:
 - (i) a duly executed certificate of an Authorized Officer of each of the Loan Parties, and the RG Facility Entities certifying:
 - (A) that attached to such certificate is (1) a true, correct, and complete copy of the certificate of formation of such person, certified by the applicable Secretary of State as of a recent date and (2) a true, correct and complete copy of the limited liability company agreement of such Person;
 - (B) that attached to such certificate is a true, correct, and complete copy of resolutions, duly adopted by the authorized governing body of such person, authorizing the execution, delivery and performance of such of the Credit Agreement Transaction Documents to which such person is or is intended to be party, and that such resolutions have not been modified, rescinded or amended and are in full force and effect;

- (C) as to the incumbency and specimen signature of each manager, officer, or member (as applicable) of such person executing the Credit Agreement Transaction Documents to which such person is or is intended to be a party and each other document to be delivered by such person from time to time pursuant to the terms thereof;
- (ii) a duly executed certificate of an Authorized Officer of the Borrower dated as of the Closing Date, certifying that (A) the copies of each Material Project Document delivered pursuant to Section 6.17(a) are true, correct and complete copies of such document, (B) each such Material Project Document is in full force and effect and no term or condition of any such Material Project Document has been amended from the form thereof delivered to the TCF Administrative Agent, (C) each of the conditions precedent set forth in each Material Project Document delivered pursuant to Section 6.17(a) that is required to be satisfied has been satisfied or waived by the parties thereto, and (D) no material breach, material default or material violation by the Borrower or, to the Knowledge of the Borrower, by any Material Project Party under any such Material Project Document has occurred and is continuing; and
- (iii) a duly executed certificate of an Authorized Officer of the Borrower certifying that each of the representations and warranties of the Borrower contained in this Agreement and the other TCF Financing Documents is true and correct in all respects on and as of such date.
- (k) Establishment of Accounts and Common Accounts. Each of the P1 Accounts and the Common Accounts shall have been established as required pursuant to the P1 Accounts Agreement and the Common Accounts Agreement, respectively.
- (l) Lien Search; Perfection of Security. The TCF Administrative Agent shall have received evidence satisfactory to the TCF Administrative Agent and the Senior Lenders of the following actions in connection with the perfection of the Collateral:
 - (i) completed requests for information or copies of the Uniform Commercial Code search reports and tax lien, judgment and litigation search reports, dated as of a recent date before the Closing Date, for the States of Delaware, Texas, and any other jurisdiction reasonably requested by the TCF Administrative Agent that name the Borrower, the Pledgor, and each RG Facility Entity, together with copies of each UCC financing statement, fixture filing or other filings listed therein, which shall evidence no Liens on the Collateral, other than Permitted Liens; and
 - (ii) evidence of the completion of all other actions, recordings and filings of or with respect to the Senior Security Documents that the TCF Administrative Agent or any Senior Lender may deem necessary or reasonably desirable in order to perfect the first-priority (subject to Permitted Liens) Liens created thereunder, including (A) the delivery by Pledgor to the P1 Collateral Agent of the original certificates representing

(1) all Equity Interests in the Borrower, together with duly executed transfer powers and irrevocable proxies in substantially the form attached to the P1 Pledge Agreement and (2) all Equity Interests in InsuranceCo and LandCo held by the Borrower, together with, if applicable, duly executed transfer powers and irrevocable proxies in substantially the form attached to the P1 Security Agreement, (B) if applicable, the delivery to the P1 Collateral Agent of original certificates representing all notes or other instruments representing Permitted Subordinated Debt, in each case, duly indorsed to the P1 Collateral Agent or in blank in accordance with a Pledge of Subordinated Debt Agreement, and (C) the filing of UCC-1 financing statements.

- (m) Authority to Conduct Business. The TCF Administrative Agent shall have received certificates of good standing or certificates of fact, dated as of a recent date prior to the Closing Date, from the Secretaries of State of each relevant jurisdiction, that each of the Loan Parties, and each of the RG Facility Entities is duly authorized to carry on its business and is duly organized, validly existing and in good standing in its jurisdiction of organization and, with respect to each of the RG Facility Entities, is duly authorized to carry on its business and existence in the State of Texas.
- (n) Independent Accounting Firm. The TCF Administrative Agent shall have received evidence satisfactory to the TCF Administrative Agent and the Senior Lenders that the Borrower has appointed Grant Thornton LLP as its accounting firm.
- (o) Bankruptcy Remoteness. The Borrower and each RG Facility Entity shall be in compliance with its obligations in Schedule 4.3 (*Separateness*) of the Common Terms Agreement.
- (p) Lien Waivers. The TCF Administrative Agent shall have received (i) Lien Waivers executed by the P1 EPC Contractor substantially in the forms of Schedules K-1 and K-2 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under each P1 EPC Contract and (ii) Lien Waivers executed by each P1 Major EPC Subcontractor and P1 Major EPC Sub-subcontractor (provided, that no such Lien Waivers shall be required from any P1 Major EPC Subcontractor or P1 Major EPC Sub-subcontractor, to the extent that the aggregate amount of Work by such P1 Major EPC Subcontractor or such P1 Major EPC Sub-subcontractor through the date on which payment has been requested does not exceed \$150,000,000) substantially in the forms of Schedules K-3 and K-4 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under the P1 EPC Contracts, and in the case of each of the Lien Waivers under clauses (i) and (ii), the insertions in such interim Lien Waivers shall be satisfactory to the TCF Administrative Agent (in consultation with the Independent Engineer).
- (q) Flood Insurance. The Borrower shall have complied with its obligations under Section 8.17.

- (r) Withdrawal Certificate. The Borrower shall have provided a Withdrawal Certificate to the P1 Accounts Bank and the P1 Collateral Agent, which such Withdrawal Certificate shall request all withdrawals to be made from the P1 Construction Account on the Closing Date in accordance with the P1 Accounts Agreement.
- (s) Cash Equity Contributions. The Pledgor shall have made an equity contribution to the Borrower in an amount no less than \$286,333,336.00.
- (t) FID. The TCF Administrative Agent shall have received evidence that Sponsor has taken a final investment decision with respect to the Project.
- (u) Fees; Expenses. The TCF Administrative Agent shall have received (or will receive from the proceeds of such drawing) for its own account, or for the account of each Credit Agreement Senior Secured Party under this Agreement entitled thereto, all fees due and payable pursuant to this Agreement and any other TCF Financing Document, and all costs and expenses (including costs, fees and expenses of legal counsel and Consultants) payable hereunder or thereunder for which invoices have been presented.
- (v) CD Credit Agreement; Note Purchase Agreement. The "Closing Date" as defined in and under the CD Credit Agreement shall have occurred (or will occur simultaneously with the Closing Date) and "Closing" as defined in and under the Note Purchase Agreement, entered in connection with the CD Senior Notes Indenture, shall have occurred (or will occur simultaneously with the Closing Date).

7.2. Conditions to Construction/Term Loans

The obligation of each Senior Lender to make any of its Construction/Term Loans will be subject to the (x) occurrence of the Closing Date, and (y) the satisfaction or waiver by the Majority Senior Lenders of each of the following conditions precedent (provided, that, with respect to clause (y), for any Construction/Term Loan Borrowing occurring on the Closing Date, the satisfaction or waiver by each Senior Lender):

- (a) Notice of Construction/Term Loan Borrowing. Solely with regard to the making of any Construction/Term Loan, the TCF Administrative Agent shall have received a duly executed Borrowing Notice, as required by and in accordance with Section 2.2.
- (b) Independent Engineer Advance Certificate. The TCF Administrative Agent shall have received a duly executed Independent Engineer Advance Certificate together with, other than with respect to each Construction/Term Loan Borrowing on or after the date that is sixty days after the Closing Date, the Independent Engineer's monthly report for the month that is two months prior to the month in which such date is to occur.
- (c) Borrower Advance Certificate. The TCF Administrative Agent shall have received a duly executed Borrower Advance Certificate.

- (d) Construction Progress. The TCF Administrative Agent shall have received satisfactory evidence that (i) that the construction of the Project is proceeding substantially in accordance with the construction schedule set out in the Construction Budget and Schedule or, if not so proceeding, any delays will not result in Substantial Completion under each P1 EPC Contract not being completed by the Date Certain and (ii) as to the existence of sufficient funds needed to achieve Substantial Completion under each P1 EPC Contract by the Date Certain.
- (e) Real Property. The TCF Administrative Agent shall have received for each Construction/Term Loan Borrowing occurring after the Closing Date, a Disbursement Endorsement for all Common Trust Property for the period covering the fiscal quarter ended immediately preceding the delivery of the Borrowing Notice (with each fiscal year commencing on January 1).
- (f) Lien Waivers. The TCF Administrative Agent shall have received (i) Lien Waivers executed by the P1 EPC Contractor substantially in the forms of Schedules K-1 and K-2 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under each P1 EPC Contract and (ii) Lien Waivers executed by each P1 Major EPC Subcontractor and P1 Major EPC Sub-subcontractor (provided, that no such Lien Waivers shall be required from any P1 Major EPC Subcontractor or P1 Major EPC Sub-subcontractor, to the extent that the aggregate amount of Work by such P1 Major EPC Subcontractor or such P1 Major EPC Sub-subcontractor through the date on which payment has been requested does not exceed \$150,000,000) substantially in the forms of Schedules K-3 and K-4 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under the P1 EPC Contracts, and in the case of each of the Lien Waivers under clauses (i) and (ii), the insertions in such interim Lien Waivers shall be satisfactory to the TCF Administrative Agent (in consultation with the Independent Engineer).
- (g) Equity Contributions. The Pledgor shall have concurrently deposited (or cause to be deposited) Equity Payments (as defined in the P1 Equity Contribution Agreement) in the P1 Construction Account on or prior to the date of the applicable Advance in such amounts as shall be required to cause the ratio of (i) outstanding principal amounts of Senior Secured Debt (excluding principal amounts and Senior Secured Debt Commitments in respect of Working Capital Debt) including the aggregate amount of the proceeds of the Construction/Term Loans made on or prior to such date to (ii) the Aggregate Funded Equity to not exceed 75:25.
- (h) Equity Credit Support. As of the date of the Construction/Term Loan Borrowing, the Pledgor shall be in compliance with its obligation to maintain Equity Credit Support in accordance with Section 2.2 (*Equity Credit Support*) of the P1 Equity Contribution Agreement.
- (i) Pro Rata Drawdown. To the extent commitments are outstanding thereunder, the Borrower shall have requested a "Construction/Term Loan Borrowing" as defined

in and under the CD Credit Agreement concurrently with the Construction/Term Loan Borrowing on *pro rata* basis between the "Construction/Term Loan Commitment" as defined in the CD Credit Agreement and the Construction/Term Loan Commitment hereunder (subject to minimum and increment requirements on borrowing hereunder and thereunder).

- (j) Representations and Warranties. Each of the representations and warranties of the Borrower in this Agreement and the Loan Parties in the other TCF Financing Documents is true and correct in all material respects (except in the case of the Closing Date in which case such representations and warranties shall be true and correct in all respects), except for (i) those representations and warranties that are qualified by materiality, which shall be true and correct in all respects, on and as of the date of such Construction/Term Loan Borrowing as if made on and as of such date (or, if stated to have been made solely as of an earlier date, as of such earlier date) and (ii) the representations and warranties that, pursuant to Section 6.1(c), are not deemed repeated.
- (k) Absence of Default. No Default or Event of Default has occurred and is continuing on such date or will result from the consummation of the transactions contemplated by the Credit Agreement Transaction Documents.
- (l) Fees; Expenses. The TCF Administrative Agent shall have received (or will receive from the proceeds of such drawing) for its own account, or for the account of each Credit Agreement Senior Secured Party under this Agreement entitled thereto, all fees due and payable pursuant to this Agreement and any other TCF Financing Document, and all costs and expenses (including costs, fees and expenses of legal counsel and Consultants) payable hereunder or thereunder for which invoices have been presented.

7.3. [Reserved]

7.4. [Reserved]

7.5. Conditions to Term Conversion Date Drawing

On the Term Conversion Date, the Borrower may request a Term Conversion Date Drawing, subject solely to the conditions set forth in Section 7.2(a), Section 7.2(g) (subject to the requirements of Section 2.1(d)(ii)), and Section 7.6.

7.6. Conditions to Term Conversion Date

The occurrence of the Term Conversion Date is subject to the satisfaction or waiver by the Majority Senior Lenders of each of the following conditions precedent:

- (a) Notice of Term Conversion. The TCF Administrative Agent shall have received a duly executed and completed Notice of Term Conversion from the Borrower.
- (b) Borrower Term Conversion Certificate. The TCF Administrative Agent shall have received a duly executed Borrower Term Conversion Certificate.

- (c) Substantial Completion Certificates. The TCF Administrative Agent shall have received copies of each certificate executed by the Borrower whereby the Borrower accepts Substantial Completion under each P1 EPC Contract.
- (d) Independent Engineer Term Conversion Certificate. The TCF Administrative Agent shall have received a duly executed Independent Engineer Term Conversion Certificate.
- (e) Permitted Completion Amount. If Final Completion under each P1 EPC Contract has not yet occurred, the P1 Collateral Agent shall have received evidence that the Permitted Completion Amount is on deposit in the P1 Construction Account after giving effect to the deposits and transfers set forth in Section 3.1 (*P1 Construction Account*) of the P1 Accounts Agreement.
- (f) Date of First Commercial Delivery. The TCF Administrative Agent shall have received a duly executed certificate of the Borrower certifying that the "Date of First Commercial Delivery" or an equivalent term under, and as defined in, each Credit Agreement Designated Offtake Agreement has timely occurred.
- (g) LRT Certificates. The TCF Administrative Agent shall have received executed copies of each of the LRT Certificates.
- (h) Common Title Policy. The TCF Administrative Agent shall have received a final Disbursement Endorsement satisfactory to the Majority Senior Lenders and such additional endorsements as the Majority Senior Lenders shall reasonably request as to Substantial Completion of any P1 Train Facilities and which are reasonably obtainable from title insurers in regards to commercial property located in the State of Texas.
- (i) Insurance.
 - (i) The TCF Administrative Agent shall have received an Insurance Advisor Term Conversion Certificate confirming that all required adjustments to the Rio Grande Facility operational insurance policies have been implemented and that such insurance conforms to the requirements specified in the TCF Financing Documents and the Material Project Documents; and
 - (ii) On or prior to the Term Conversion Date, the Borrower shall deliver policies of insurance and brokers letters in compliance with, and evidence satisfactory to the Majority Senior Lenders of the existence of all insurance then required to be maintained by the Insurance Program and a certificate of InsuranceCo confirming the same.
- (j) Representations and Warranties. Each of the representations and warranties of the Borrower in this Agreement and the Loan Parties in the TCF Financing Documents is true and correct in all material respects, except for (i) those representations and warranties that are qualified by materiality, which shall be true and correct in all respects, on and as of the Term Conversion Date as if made on and as of such date (or, if stated to have been made solely as of an earlier date,

as of such earlier date) and (ii) the representations and warranties that, pursuant to Section 6.1(c), are not deemed repeated.

- (k) Absence of Default. No Default or Event of Default has occurred and is continuing on such date or will result from the consummation of the transactions contemplated by the Credit Agreement Transaction Documents, including the occurrence of the Term Conversion Date.
- (l) Collateral. The Collateral is subject to the perfected first priority Lien (subject only to Permitted Liens **and any exceptions permitted under the P1 Collateral Documents**) intended to be established pursuant to the Senior Security Documents.
- (m) Government Approvals. The TCF Administrative Agent shall have received evidence satisfactory to the Majority Senior Lenders that all Material Government Approvals then required (i) have been duly obtained, (ii) are in full force and effect, (iii) are not the subject of any pending rehearing or appeal to the issuing agency and all applicable fixed time periods for rehearing or appeal to the issuing agency have expired (other than in the case of the FERC Remand Order and any such Material Government Approvals that do not have limits on rehearing or appeal periods), (iv) are held in the name of the holder thereof, and (v) are free from conditions or requirements (A) the compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be satisfied on or prior to the commencement of the relevant stage of Development, except to the extent that a failure to satisfy such condition or requirement would not reasonably be expected to have a Material Adverse Effect.
- (n) Opinions of Counsel. The TCF Administrative Agent shall have received opinions from the Borrower's counsel in form and substance satisfactory to the Majority Senior Lenders (and addressed to each of the TCF Administrative Agent, the P1 Collateral Agent and the Senior Lenders) with respect to (i) all Additional Material Project Documents executed and delivered after the Closing Date, such opinions to address only those matters addressed in the opinions delivered pursuant to Section 7.1(c) that related to Material Project Documents, and (ii) customary permitting and regulatory matters relating to the Development on and after the Project Completion Date, including any Material Government Approval obtained after the Closing Date and any additional DOE Export Authorizations obtained after the Closing Date.
- (o) Annual Operating Budget. The Annual Facility Budget and Annual Facility Plan for the calendar year in which the P1 Train Facilities have reached the respective Start Dates have been developed and approved pursuant to the CFAA.
- (p) Project Placed in Service. The TCF Administrative Agent shall have received evidence satisfactory to the Majority Senior Lenders that the Borrower has received from FERC a notice, order or other written communication authorizing it to place the Project in service, and the Project shall have been placed in service.
- (q) Construction Contract Liquidated Damages. All Performance Liquidated Damages and Delay Liquidated Damages due and payable as of the Term

Conversion Date under the P1 EPC Contracts (other than any Performance Liquidated Damages or Delay Liquidated Damages that are subject to dispute or that are in any amount less than \$5,000,000) shall have been deposited into the appropriate P1 Accounts or Common Accounts and applied as set forth in the P1 Accounts Agreement or the Common Accounts Agreement.

- (r) Lien Waivers. The TCF Administrative Agent shall have received (i) Lien Waivers executed by the P1 EPC Contractor substantially in the forms of Schedules K-1 and K-2 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under each P1 EPC Contract and (ii) Lien Waivers executed by each P1 Major EPC Subcontractor and P1 Major EPC Sub-subcontractor (provided, that no such Lien Waivers shall be required from any P1 Major EPC Subcontractor or P1 Major EPC Sub-subcontractor, to the extent that the aggregate amount of Work by such P1 Major EPC Subcontractor or such P1 Major EPC Sub-subcontractor through the date on which payment has been requested does not exceed \$150,000,000) substantially in the forms of Schedules K-3 and K-4 to the P1 EPC Contracts in respect of the Work performed through the date on which payment has been requested pursuant to the then-current monthly invoice issued by the P1 EPC Contractor under the P1 EPC Contracts, and in the case of each of the Lien Waivers under clauses (i) and (ii), the insertions in such interim Lien Waivers shall be satisfactory to the TCF Administrative Agent (in consultation with the Independent Engineer).
- (s) Credit Agreement Debt Service Reserve Amount. As of the Term Conversion Date, the TCF Senior Loan DSRA shall have been funded in cash and/or by one or more instruments of DSR Credit Support (as defined in the P1 Accounts Agreement) in accordance with the P1 Accounts Agreement in an amount equal to the Credit Agreement Debt Service Reserve Amount.
- (t) [Reserved].
- (u) Environmental and Social Action Plan. The Borrower shall be in compliance in all material respects with the applicable requirements of the Environmental and Social Action Plan.

8. AFFIRMATIVE COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in Article 4 (*Affirmative Covenants*) of the Common Terms Agreement and each of the following supplemental obligations set forth in this Article 8 in favor and for the benefit of the TCF Administrative Agent and each Senior Lender:

8.1. Maintenance of Existence, Etc.

Except as otherwise expressly permitted by Section 9.2(a), the Borrower shall maintain its limited liability company existence as a Texas limited liability company.

8.2. RG Facility Entities

- (a) The Borrower shall retain and at all times maintain its direct legal and beneficial ownership interest and Voting Interest in each RG Facility Entity, in each case, subject to adjustment in accordance with the limited liability company agreement of such RG Facility Entity.
- (b) The Borrower shall cause each RG Facility Entity to comply at all times with the separateness provisions set forth on Schedule 4.3 (*Separateness*), of the Common Terms Agreement.

8.3. Taxes

The Borrower shall (a) file (or cause to be filed) all tax returns required to be filed by the Borrower and any RG Facility Entity so long as such entity is a Controlled Subsidiary of the Borrower and (b) pay and discharge (or caused to be paid and discharged), before the same shall become delinquent, after giving effect to any applicable extensions, all Taxes imposed on the Borrower or any RG Facility Entity or their respective Properties unless such Taxes are subject to a Contest and such Contest, if adversely determined, could not reasonably be expected to have a Material Adverse Effect.

8.4. Compliance with Material Project Documents, Etc.

- (a) The Borrower shall take, and so long as any RG Facility Entity is a Controlled Subsidiary of the Borrower, cause such RG Facility Entity to take, all reasonable and necessary action to prevent the termination or cancellation of any Material Project Document in accordance with the terms of such Material Project Documents or otherwise (except (i) to the extent any such agreement expires in accordance with its terms and not as a result of a breach or default thereunder, (ii) to the extent any such agreement is permitted to be terminated (and if required, replaced) under the TCF Financing Documents, and (iii) to the extent provided under Section 8.5).
- (b) The Borrower shall, and so long as any RG Facility Entity is a Controlled Subsidiary of the Borrower, cause such RG Facility Entity to, comply with its contractual obligations and enforce against the relevant Material Project Party each covenant or obligation of each Material Project Document to which such Person is a party in accordance with its terms, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.
- (c) The Borrower shall, within thirty days after the date on which an Additional Material Project Document is executed, deliver or cause to be delivered to the P1 Collateral Agent:
 - (i) each Senior Security Document, if any, necessary to grant the P1 Collateral Agent a first priority perfected Lien in such Additional Material Project Document (subject only to Permitted Liens) (with a form of such document to be delivered prior to execution of such agreement); provided, that, notwithstanding the foregoing, no Consent Agreement shall be required by this clause (i) unless otherwise required by clause (d) below;

- (ii) evidence of the authorization of the Borrower to execute (or, in the case of the assignment of the APCI License Agreement, the assignment of such agreement), deliver, and perform such Additional Material Project Document;
 - (iii) a certificate of the Borrower certifying that (A) all Government Approvals necessary for the execution, delivery, and performance of such Additional Material Project Document have been duly obtained, were validly issued and are in full force and effect and (B) such Additional Material Project Document is in full force and effect and constitutes a legal, valid and binding obligation of it, enforceable in accordance with its terms, except as enforcement may be limited by general principles of equity and bankruptcy, insolvency and similar Government Rules;
 - (iv) in respect of any Additional Material Project Document that is a Credit Agreement Designated Offtake Agreement or a guaranty in respect of a Credit Agreement Designated Offtake Agreement, or that otherwise is in replacement of or substitution for any Material Project Document in respect of which an opinion and Consent Agreement is required to be delivered, an opinion of counsel to the Borrower and an opinion of counsel to the counterparty, in each case, with respect to the due authorization, execution, and delivery of such document and the associated Consent Agreement and their validity and enforceability against such Person;
- (d) Within thirty days after executing any Additional Material Project Document that is a Material Project Document in replacement of a Material Project Document entered into on or prior to the Closing Date (or any replacement thereof), a Credit Agreement Designated Offtake Agreement, or any guaranty of any Credit Agreement Designated Offtake Agreement, the Borrower shall obtain and deliver to the P1 Collateral Agent a Consent Agreement with respect to such Additional Material Project Document;
 - (e) Upon the assignment thereof to the Borrower, the Borrower shall use commercially reasonable efforts for a period of 180 days after assignment thereof to the Borrower to deliver a Consent Agreement in respect of the APCI License Agreement;
 - (f) For the period from the first anniversary of the Closing Date and until 180 days thereafter, the Borrower shall use commercially reasonable efforts to deliver a Consent Agreement from each counterparty to an Initial Time Charter Party Agreement;
 - (g) Except as set forth under any other subsection of this Section 8.4, the Borrower shall, for a period of 180 days after the execution thereof, use commercially reasonable efforts to obtain and deliver to the P1 Collateral Agent a Consent Agreement from each counterparty to any Additional Material Project Document; and

- (h) Notwithstanding any other provision of this Section 8.4, the Borrower shall not be required to obtain and deliver to the P1 Collateral Agent a Consent Agreement in respect of (i) any Gas transportation agreements entered into after the Term Conversion Date, any interconnection or storage agreements, other than any with the Sponsor or an Affiliate of the Sponsor or (ii) any Gas supply agreements.

8.5. Maintenance of Credit Agreement Designated Offtake Agreements; LNG Sales Mandatory Prepayment

- (a) The Borrower shall at all times maintain and designate to the TCF Administrative Agent Qualified Offtake Agreements providing for commitments to purchase LNG in quantities at least equal to the Base Committed Quantity for each such Qualified Offtake Agreement's applicable Qualified Term (collectively, the "**Credit Agreement Designated Offtake Agreements**"). In the event that any such Qualified Offtake Agreement has terminated, the Borrower shall designate another Qualified Offtake Agreement or enter into and designate one or more additional Qualified Offtake Agreements within 180 days following such termination to the extent necessary to meet the Base Committed Quantity. If at the end of such 180-day period, the Borrower is diligently pursuing one or more replacement Qualified Offtake Agreements, such period will be extended for an additional period (not to exceed ninety days) during which the Borrower reasonably expects to enter into such replacement Qualified Offtake Agreement(s) as long as the implementation of such extension could not reasonably be expected to result in a Material Adverse Effect.
- (b) The Borrower shall be required to make a mandatory prepayment of Senior Secured Debt (an **LNG Sales Mandatory Prepayment**) within thirty days of the occurrence of either of the events set forth below (each, an "**LNG Sales Mandatory Prepayment Event**"):
- (i) the Borrower breaches the covenant in Section 8.5(a) (taking into account the period set forth therein to replace the relevant Offtake Agreement or designate any other Qualified Offtake Agreement); or
 - (ii) with respect to any Credit Agreement Designated Offtake Agreement, any Required Export Authorization becomes Impaired and the Borrower does not:
 - (A) provide a reasonable remediation plan (setting forth in reasonable detail proposed steps to reinstate the Required Export Authorization, to designate any existing Qualified Offtake Agreement as a Credit Agreement Designated Offtake Agreement, or to modify any Credit Agreement Designated Offtake Agreement arrangements, such as through diversions or alternative delivery or sale arrangements, such that such DOE Export Authorization is no longer a Required Export Authorization within 360 days following such occurrence) with respect to any or all such Credit Agreement Designated Offtake Agreements (each such item an "**Export Authorization Remediation**") within thirty days following such occurrence;

- (B) diligently pursue such Export Authorization Remediation; or
- (C) cause such Export Authorization Remediation to take effect within 180 days following the occurrence of the Impairment; provided, that the Borrower shall have a further 180 days to effect an Export Authorization Remediation if the following conditions are met:
 - (1) the Borrower is diligently pursuing its plan for the Export Authorization Remediation;
 - (2) the Impairment of the Required Export Authorization of such Credit Agreement Designated Offtake Agreement could not reasonably be expected to result in a Material Adverse Effect during such subsequent cure period; and
 - (3) the TCF Administrative Agent has received a certification from the Borrower, prior to the expiration of the initial 180 day period, confirming that each condition in clauses (1) and (2) has been met together with documentation reasonably supporting its certification, which may include, to the extent relevant and applicable, a description of the plans being undertaken for the Export Authorization Remediation (although commercially sensitive information may be omitted), any measures being taken by the Borrower to address the underlying cause of the Impairment to the extent relevant to the Impairment and Export Authorization Remediation, any legal measures being undertaken to reverse the Impairment, any interim cash flow mitigation measures being taken by the Borrower (including sales of spot cargoes), any modification to Offtake Agreement arrangements such that the Impaired DOE Export Authorization is no longer a Required Export Authorization with respect to any or all such Credit Agreement Designated Offtake Agreements, and the impact on the Borrower projected Cash Flow during the subsequent cure period, and the TCF Administrative Agent (acting on the instructions of the Majority ~~Affected~~ **Senior** Lenders), acting reasonably, has not objected to such certification within thirty days following delivery thereof.
- (c) The principal amount of the Senior Secured Debt (which shall not extend to any Working Capital Debt unless only Working Capital Debt remains outstanding) that the Borrower shall repay and/or the amount of undrawn Senior Secured Debt ~~commitments~~ **Commitments** that the Borrower shall cancel upon the occurrence of any LNG Sales Mandatory Prepayment Event shall be:
 - (i) the aggregate principal amount of Senior Secured Debt (excluding principal amounts with respect to Working Capital Debt unless only Working Capital Debt is then outstanding) then outstanding *plus* the aggregate principal amount of undrawn Senior Secured Debt

Commitments (except with respect to Working Capital Debt unless only Working Capital Debt is then outstanding); *less*

- (ii) the maximum principal amount of Senior Secured Debt that can be incurred or remain outstanding, assuming that all outstanding principal amounts of Senior Secured Debt (excluding principal amounts and Senior Secured Debt Commitments in respect of Working Capital Debt) are amortized to a zero balance by the end of the Latest Qualified Term of the ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements in effect at such time without producing a Credit Agreement Projected DSCR of less than 1.45:1.00 for the period starting from the first Quarterly Payment Date for the repayment of principal after the end of the applicable cure period to the end of the calendar year in which such Quarterly Payment Date occurs, and for each calendar year thereafter through the expiration of the Latest Qualified Term of the ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements in effect at such time (based on a Base Case Forecast updated only to take into account each ~~Qualified~~ **Credit Agreement Designated** Offtake Agreement in effect at such time and in respect of which there is in effect its Required Export Authorization which is not Impaired (including any new ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements entered into to replace a ~~Qualified~~ **Credit Agreement Designated** Offtake Agreement whose termination triggered the LNG Sales Mandatory Prepayment Event)).
- (d) The Borrower shall provide to the TCF Administrative Agent reasonable documentary support to show the amount of Senior Secured Debt to be repaid and Senior Secured Debt Commitments to be cancelled, including the Base Case Forecast and, to the extent appropriate, the Credit Agreement Designated Offtake Agreements then in effect and reasonable background information regarding the Required Export Authorizations with respect to such Credit Agreement Designated Offtake Agreements and supporting the designation of such DOE Export Authorizations as Required Export Authorizations with respect to such Credit Agreement Designated Offtake Agreements.
- (e) In making the prepayment and cancellation described in Section 8.5(c) above, the Borrower shall *first* repay the aggregate principal amount of Senior Secured ~~Obligations~~ **Debt** then outstanding to the extent required under Sections 8.5(b) and 8.5(c) or until there ~~are~~ **is** no more Senior Secured ~~Obligations~~ **Debt** outstanding and if this has not resulted in a prepayment of the amount required to satisfy the test in Section 8.5(b)(ii) and *second* cancel the aggregate principal amount of ~~Construction/Term Loan~~ **Senior Secured Debt** Commitments to the extent required under Sections 8.5(b) and 8.5(c). **In making the cancellation described in Section 8.5(c) above, the Borrower shall cancel first the “Construction/Term Loan Commitments” under the CD Credit Agreement and second the Construction/Term Loan Commitments under this Agreement prior to the cancellation of any other Senior Secured Debt Commitments.** The prepayment and cancellation made pursuant to this Sections 8.5(b) and 8.5(c) shall be required to be made by the earliest of (i) the thirtieth day following the termination of the cure period applicable thereto, (ii) the next Quarterly Payment Date if such date is more than ten Business Days

following the termination of the cure period applicable thereto, and (iii) the tenth Business Day following the termination of the cure period applicable thereto if the next Quarterly Payment Date is less than ten Business Days following the termination of the cure period applicable thereto.

- (f) Upon completion of the prepayment of ~~Construction/Term Loan~~ **Senior Secured Debt then outstanding** and cancellation of ~~of Construction/Term Loan~~ **Senior Secured Debt** Commitments as and to the extent required by Sections 8.5(b) and 8.5(c) above, the LNG Sales Mandatory Prepayment Event and underlying breach of Section 8.5(a) or Impairment triggering such LNG Sales Mandatory Prepayment Event shall no longer be continuing under the TCF Financing Documents insofar as the same set of events, facts or circumstances that caused such breach, Impairment and mandatory prepayment are concerned, but without prejudice to the Borrower's obligations under Section 8.5(a) and this Section 8.5(f) with respect to any other event, fact or circumstance.

8.6. Compliance with Material Government Approvals, Etc.

- (a) The Borrower shall comply or cause compliance in all material respects with, and ensure that the Development is in compliance in all material respects with all Material Government Approvals.
- (b) The Borrower shall at all times obtain (by the time they are required), renew and maintain, or use commercially reasonable efforts to cause the RG Facility Entities or any other third party, as allowed pursuant to Government Rule, to obtain, renew or maintain, in full force and effect all Material Government Approvals as necessary for the Development or the operation of the Rio Grande Facility.

8.7. Compliance with Government Rules, Etc.

- (a) The Borrower shall comply or cause compliance in all material respects with, and ensure that the Development is in compliance in all material respects with all material Government Rules applicable to the Borrower or the Development, including Environmental Laws but excluding Government Rules applicable to Taxes, as to which Section 8.3 shall apply.
- (b) The Borrower shall cause the Development to be in compliance in all material respects with the applicable requirements of the Equator Principles and the Environmental and Social Action Plan.
- (c) The Borrower shall, and shall cause each of the RG Facility Entities to, comply in all material respects with Sanctions Regulations.
- (d) The Borrower agrees that if it obtains Knowledge or receives any written notice that the Borrower or any RG Facility Entity, or any Person holding a legal or beneficial interest therein (whether directly or indirectly) is or becomes a Restricted Person (such occurrence, a "**Sanctions Violation**"), the Borrower shall within a reasonable time (i) give written notice to the TCF Administrative Agent of such Sanctions Violation and (ii) comply with all applicable Sanctions Regulations with respect to such Sanctions Violation (regardless of whether the

party included on the Sanctions List is located within the jurisdiction of the United States), and the Borrower hereby authorizes and consents to the TCF Administrative Agent taking any and all steps the TCF Administrative Agent deems necessary, in its sole discretion, to comply with all applicable Sanctions Regulations with respect to any such Sanctions Violation, including the “freezing” or “blocking” of assets and reporting such action to the applicable Sanctions Authority.

- (e) The proceeds of the Construction/Term Loans will not be used by the Borrower and any of the RG Facility Entities, directly or knowingly indirectly, in violation of any Anti-Corruption Laws or Anti-Terrorism and Money Laundering Laws (to the extent applicable), including through the making of any bribe or unlawful payment.

8.8. Tax Status

The Borrower shall at all times maintain its status as a partnership or as an entity disregarded for U.S. federal, state and local income tax purposes.

8.9. Project Construction

The Borrower shall construct and complete the Project, and cause the Project to be constructed and completed consistent with Prudent Industry Practices.

8.10. Shipping and Sub-charter Arrangements

For so long as any Credit Agreement Designated Offtake Agreement to which the Borrower is a party is on Delivered terms, the Borrower shall comply with the following covenants:

- (a) The Borrower shall maintain the Required LNG Tanker Capacity under one or more Time Charter Party Agreements having a tenor not less than the tenor then-required so that the Borrower has the Required LNG Tanker Capacity for all such Credit Agreement Designated Offtake Agreements on a Delivered basis to which it is a party; provided, that, if one or more Time Charter Party Agreements has terminated, the Borrower shall enter into one or more additional Time Charter Party Agreements within 180 days following such termination to the extent necessary to meet the Required LNG Tanker Capacity. If at the end of such 180 day period, the Borrower is diligently pursuing one or more replacement Time Charter Party Agreements, such period will be extended for an additional period (not to exceed ninety days) during which the Borrower reasonably expects to enter into such replacement Time Charter Party Agreements as long as the implementation of such extension could not reasonably be expected to result in a Material Adverse Effect.
- (b) All Time Charter Party Agreements entered into after the Closing Date shall be entered into on Market Terms **(pursuant to clause (b) of the definition thereof)**.
- (c) If any Time Charter Party Agreement entered into after the Closing Date is for an LNG Tanker subject to a mortgage or other form of Lien, then the Borrower shall

use commercially reasonable efforts to procure that the holder of such mortgage or Lien agree to customary quiet enjoyment rights in favor of the Borrower.

- (d) With respect to any Time Charter Party Agreement entered into after the Closing Date, the Borrower shall procure and maintain, or procure that the ship owner procures and maintains, customary protection and indemnity (P&I) insurance in respect of any LNG Tanker, which in any event shall not be less than as required by the relevant Credit Agreement Designated Offtake Agreement applicable to the LNG volumes for which the Time Charter Party Agreement was executed.
- (e) The Borrower shall ensure that any sub-charter agreement of an LNG Tanker entered into by the Borrower and any third party (the “**Sub-Charter Agreement**”):
 - (i) has terms and conditions that:
 - (A) are substantially the same as (1) the Time Charter Party Agreement in respect of such LNG Tanker or (2) the Time Charter Party for the Carriage of LNG form code named “SHELLLNGTIME 2”, in each case, on an arm’s length basis;
 - (B) would not result in the voiding of any charterer’s liability insurance obtained and maintained by the Borrower;
 - (C) would not otherwise result in a default by the Borrower that would give rise to a right of the vessel owner to terminate the applicable Time Charter Party Agreement in respect of such LNG Tanker;
 - (D) prohibit the sub-charterer from operating the applicable LNG Tanker within, or embarking or disembarking such LNG Tanker from, any Sanctioned Countries; and
 - (E) requires the relevant LNG Tanker to be redelivered to the Borrower in sufficient time ahead of the date by which the LNG Tanker is required to meet the Borrower’s shipping and delivery obligations under any of its Designated Offtake Agreements that are on a Delivered basis; and
 - (ii) is entered into with a sub-charterer who:
 - (A) is not a Restricted Person; and
 - (B) has (1) the technical competence and experience in the chartering and employment of LNG Tankers in the international LNG Tanker chartering market and (2) the financial capability required to perform the obligations of a sub-charterer under the applicable sub-charter agreement.

8.11. Interest Rate Hedging

The Borrower shall, on or prior to 45 days following the Closing Date, enter into, and thereafter maintain, one or more Senior Secured IR Hedge Agreements with aggregate notional amounts (after giving effect to any Offsetting Transactions) in respect of each Quarterly Payment Date equal to or greater than 75% of the Projected Principal Amount of all Senior Secured Debt as of each such Quarterly Payment Date; provided, that, for purposes of calculating the foregoing percentage, (a) the principal balance of any Working Capital Debt shall be excluded, and (b) any Senior Secured Debt which bears a fixed interest rate shall be deemed subject to a Senior Secured IR Hedge Agreement.

8.12. Access; Inspection

- (a) The Borrower shall keep proper books of record in accordance with GAAP in all material respects and permit representatives and advisors of the TCF Administrative Agent, upon reasonable notice (but other than as required pursuant to Section 8.12(b)), no more than twice per calendar year (unless an Event of Default has occurred and is continuing), to examine, excerpts from its books, records and documents and to make copies thereof, all at such times during normal business hours as such representatives may reasonably request upon 30 days' advance notice.
- (b) Site visits to the Project may be conducted upon reasonable request by (i) the Independent Engineer and, if requested, the TCF Administrative Agent (or one alternative representative), or the Environmental Advisor, any such visits to be coordinated between the Independent Engineer, the TCF Administrative Agent, and the Environmental Advisor up to two times per calendar year, except to the extent additional visits may be reasonably required in connection with the occurrence of an Event of Default and (ii) any Consultant to the extent reasonably required for such Consultant to witness any testing or otherwise in connection with or to provide any report, certificate, or confirmation explicitly contemplated by the terms of the TCF Financing Documents. Site visits shall only be conducted during normal business hours, in a manner that does not unreasonably disrupt the construction or operation of the Project in any respect, and subject to the confidentiality provisions of Section 15.15 (*Termination of Certain Information; Confidentiality*) of the Collateral and Intercreditor Agreement or analogous confidentiality restrictions required by the Borrower and observance of all applicable environmental, health and safety, and industrial site visit policies.

8.13. Survey

The Borrower shall, no later than 120 days following the Term Conversion Date, deliver to the TCF Administrative Agent the "as built" Survey.

8.14. Allocation of Prepayment of Replacement Debt and Supplemental Debt

Any prepayment of the principal of Replacement Debt or Supplemental Debt must be made on *apro rata* basis with the prepayment of principal of the Construction/Term Loans.

8.15. Appointment of Delegates

The Borrower shall ensure at all times that a Delegate of the Borrower that is not an Administrator Affiliate, a Coordinator Affiliate, an Operator Affiliate, or a Pipeline Manager Affiliate is appointed to each of the Facility Committee and Executive Committee.

8.16. Certain Matters in Respect of the P1 Accounts

- (a) The Borrower shall apply amounts on deposit in the P1 Capital Improvement Account (as defined in the P1 Accounts Agreement) solely to the payment of RCI EPC CAPEX and RCI Owners' Costs (as each such term is defined in the Definitions Agreement) in respect of Permitted Capital Improvements or as otherwise permitted by the P1 Accounts Agreement.
- (b) The Borrower shall not apply amounts remaining in the P1 Construction Account in accordance with Sections 3.1(f)(iii) and 3.1(g) (*P1 Construction Account*) of the P1 Accounts Agreement to the prepayment of any other Senior Secured Debt prior to the Credit Agreement Discharge Date.
- (c) The Borrower shall not utilize Loss Proceeds to fund Restoration Work in accordance with Section 9.2(b) (*Loss Proceeds*) of the Collateral and Intercreditor Agreement unless it first complies with Schedule 8.16(c).
- (d) For purposes of the definition of "DSRA Reserve Amount" set forth in the P1 Accounts Agreement, the amount required to be funded pursuant to this Agreement shall be the Credit Agreement Debt Service Reserve Amount.

8.17. Flood Insurance

- (a) With respect to all P1 Mortgaged Property Interests located in a Special Flood Hazard Area, the Borrower will obtain and maintain (or cause to be obtained and maintained) at all times flood insurance for all Collateral located on such property as may be required under the Flood Program and will provide (or cause to be provided) to each Senior Lender evidence of compliance with such requirements as may be reasonably requested by such Senior Lender. The timing and process for delivery of such evidence will be as set forth in Section 10.3(a) with respect to the underlying insurance policy within which such flood insurance is obtained. If any Building (as defined in the applicable flood insurance regulations) or Manufactured (Mobile) Home (as defined in the applicable flood insurance regulations) constitutes property that is secured for the benefit of the Credit Agreement Senior Secured Parties pursuant to the P1 Deed of Trust, the Borrower will maintain (or cause to be maintained) in full force and effect flood insurance for such property, structures, and contents in such amount and for so long as required by applicable flood insurance regulation. For the avoidance of doubt, the insurance set forth in the Insurance Program will be deemed to satisfy the requirements of this Section 8.17(a). Notwithstanding anything to the contrary herein, if the Borrower maintains (or causes to be maintained) flood insurance under its operational property insurance, such insurance need not:

- (i) be issued by licensed, admitted or surplus lines insurers;
- (ii) include a 45 day cancellation requirement/renewal notice requirement;
- (iii) include cancellation provisions as restrictive as those in the standard flood insurance policy issued in accordance with the Flood Program; or
- (iv) include any requirement that the Borrower file (or cause to be filed) suit within one year after the date of written denial of all or part of a claim. However, such insurance shall meet the standards for discretionary acceptance under the regulations for the Biggert-Waters Flood Insurance Reform Act of 2012, being:
 - (A) the policy provides coverage in sufficient amount under the National Flood Insurance Program created by the US Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004 and any successor statutes (the "**Flood Program**");
 - (B) the policy is from a carrier(s) that are licensed, admitted, or not disapproved by a state insurance regulator;
 - (C) the policy covers the Borrower and the applicable Credit Agreement Senior Secured Parties; and
 - (D) the policy provides sufficient protection of the designated loan, consistent with general safety and soundness principles.
- (b) The Borrower shall provide (or cause to be provided) 45 days prior notice (or, if within 45 days of the Closing Date, on the Closing Date) to the TCF Administrative Agent before it commences construction of any Building (as defined in the applicable flood insurance regulations) and before it affixes any Manufactured (Mobile) Home (as defined in the applicable flood insurance regulations) to any property that is secured for the benefit of the Credit Agreement Senior Secured Parties pursuant to a deed of trust required under the TCF Financing Documents and that is located in a special flood hazard area (as defined pursuant to applicable flood insurance regulation). The preceding sentence will not affect the obligations of the Borrower under this Section 8.17 to maintain (or cause to be maintained) flood insurance.
- (c) The Borrower will, if requested by a Senior Lender, provide (or cause to be provided) 45 days prior written notice (or, if within 45 days of the Closing Date, on the Closing Date) to the TCF Administrative Agent before it acquires any real property that will be secured for the benefit of the Credit Agreement Senior Secured Parties pursuant to the P1 Deed of Trust.
- (d) The Borrower shall:

- (i) deliver (or cause to be delivered) on the Closing Date a completed “Standard Flood Hazard Determination Form” of FEMA and any successor Government Authority performing a similar function (a “**Flood Certificate**”) with respect to the P1 Mortgaged Property, which Flood Certificate shall:
 - (A) be addressed to the TCF Administrative Agent;
 - (B) provide for “life of loan” monitoring; and
 - (C) otherwise comply with the Flood Program; and
- (ii) if the Flood Certificate states that any structure comprising a portion of the anticipated P1 Mortgaged Property will be located in a special flood hazard area (as defined pursuant to applicable flood insurance regulations), the Borrower shall provide (or cause to be provided) written acknowledgment upon receipt of written request from the TCF Administrative Agent and any Senior Lender:
 - (A) as to the existence of such P1 Mortgaged Property; and
 - (B) as to whether the community in which such P1 Mortgaged Property will be located is participating in the Flood Program;

provided, that, in the case of (i) and (ii), the Borrower may instead provide (or cause to be provided) alternative flood documentation, in a form and manner to be reasonably agreed between the Borrower and the applicable Senior Lender requesting the relevant flood insurance documentation prior to the delivery date set forth above as long as the alternative flood documentation complies with applicable law.

8.18. Post-Closing Deliverables

The Borrower shall deliver, or cause to be delivered, to the TCF Administrative Agent, in form and substance reasonably satisfactory to TCF Administrative Agent, the items described on Schedule 8.18 on or before the dates specified with respect to such items, or such later dates as may be agreed to by the TCF Administrative Agent in its reasonable discretion.

8.19. Intellectual Property

The Borrower shall obtain and maintain, or use commercially reasonable efforts to cause third parties to obtain and maintain, as allowed pursuant to Government Rule, all licenses, trademarks, or patents necessary for the Development, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.

9. NEGATIVE COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in Article 5 (*Negative Covenants*) of the Common Terms Agreement and each of

the following supplemental obligations set forth in this Article 9 in favor and for the benefit of the TCF Administrative Agent and each Senior Lender.

9.1. Nature of Business

The Borrower shall not engage in any business or activities other than the Permitted Business.

9.2. Fundamental Changes

- (a) The Borrower shall not change its legal form without providing the TCF Administrative Agent with at least thirty days' prior notice.
- (b) The Borrower shall not amend its Organic Documents other than (i) any amendments solely to reflect permitted sales or transfers of Equity Interests in the Borrower, (ii) immaterial amendments, and (iii) any amendments that are not, in any material respect, adverse to the interests of the Senior Lenders or the Borrower's ability to comply with the TCF Financing Documents.

9.3. Asset Sales

- (a) The Borrower shall not convey, sell, lease, transfer, or otherwise dispose of, in one transaction or a series of transactions, any assets in excess of \$100,000,000 per year except: (i) dispositions of assets in compliance with any applicable court or governmental order, (ii) any capacity release contemplated by the Precedent Agreement Administration Agreement, (iii) sales or other dispositions of assets no longer used or useful in the Borrower's business in the ordinary course of the Borrower's business and that could not reasonably be expected to result in a Material Adverse Effect, (iv) non-exclusive licenses, covenants not to sue, releases, waivers or other rights under intellectual property, in each case, granted in the ordinary course of business in connection with the construction or operation of the Project as contemplated by the Credit Agreement Transaction Documents, (v) dispositions of other Property if the Borrower has obtained a binding commitment to replace such Property, and replaces such Property, within 270 days after such disposition, (vi) sales or other dispositions of (A) LNG, Gas, or natural gas liquids (or other commercial products) in accordance with the Project Documents, (B) any LNG in accordance with Section 9.14 or Gas in the ordinary course of business, and (C) NGLs and other petroleum by-products of liquefaction, (vii) payments, transfers, or other dispositions of cash or Cash Equivalents in accordance with the Project Documents to the extent such payment, transfer or other disposition is made in accordance with the P1 Accounts Agreement and the Common Accounts Agreement, (viii) sales, transfers, or other dispositions of Permitted Investments in accordance with the P1 Accounts Agreement and the Common Accounts Agreement, (ix) Distributions made in accordance with the TCF Financing Documents, (x) sales of liquefaction and other services in the ordinary course of business, (xi) transfers or novations of Senior Secured Hedge Agreements in accordance with Section 9.5 of this Agreement or Section 4.9 (*Interest Rate Hedging*) of the Common Terms Agreement, (xii) disposals of materials developed or obtained in the excavation or other operations of P1 EPC Contractor pursuant to Section 3.22 (*Title to*

Materials Found) of a P1 EPC Contract, (xiii) settlements, releases, waivers or surrenders of contract, tort or other claims in the ordinary course of business or grants of Liens not prohibited by the TCF Financing Documents, (xiv) conveyances of gas interconnection or metering facilities to gas transmission companies and conveyances of electricity substations to electricity providers pursuant to its electricity purchase arrangements for operating the Rio Grande Facility, and (xv) the AEP Land Release.

- (b) The Borrower shall not permit the Project or any material portion thereof to be removed, demolished or materially altered, unless (i) such material portion that has been removed, demolished or materially altered has been replaced or repaired as permitted under the CFAA, or (ii) such removal or alteration is (A) in accordance with Prudent Industry Practices (as certified by the Independent Engineer) and could not reasonably be expected to result in a Material Adverse Effect or (B) required by applicable Government Rule.
- (c) For the avoidance of doubt, if any sale, transfer, assignment, distribution, conveyance, lease or other disposition is permitted under Section 5.3 (*Asset Sales*) of the Common Terms Agreement but disallowed pursuant to this Section 9.3, such sale, transfer, assignment, distribution, conveyance, lease or other disposition shall not be permitted prior to the Credit Agreement Discharge Date.

9.4. Restrictions on Indebtedness

- (a) Debt Incurrence. For purposes of this Section 9.4, Senior Secured Debt shall be deemed “incurred” upon (i) the execution of the Senior Secured Debt Instruments in respect thereof ~~and the~~ **(irrespective of** the satisfaction or waiver of the conditions precedent thereunder to the initial disbursement thereof or initial issuance of letters of credit thereunder) or (ii) any subsequent Economic Terms Modification.
- (b) Credit Agreement Permitted Indebtedness. The Borrower shall not directly or indirectly create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to any Indebtedness other than Credit Agreement Permitted Indebtedness; provided, that the provisions of Sections 5.4(c)-(e) ~~(Restrictions on Indebtedness)~~ of the Common Terms Agreement shall not apply to this Section 9.4.
- (c) Replacement Debt.
 - (i) The Borrower shall not incur Replacement Debt prior to the Credit Agreement Maturity Date unless each of the conditions in Section 2.4 (*Replacement Debt*) of the Common Terms Agreement are complied with and:
 - (A) no Event of Default has occurred and is continuing or could reasonably be expected to occur after giving effect to and as a result of the incurrence of the Replacement Debt;

- (B) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Replacement Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the expiration of the term of the Notional Amortization Period shall not be less than 1.40:1.00; provided, that for purposes of this Section 9.4(c) the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume, if such Replacement Debt is incurred prior to the Term Conversion Date, that all Senior Secured Debt Commitments will be fully drawn;
 - (C) the weighted average life to maturity of the Replacement Debt shall be longer than the weighted average life to maturity of the Construction/Term Loans being replaced prior to the incurrence of such Replacement Debt;
 - (D) the final maturity date of the Replacement Debt shall occur after the Credit Agreement Maturity Date; and
 - (E) such Replacement Debt is denominated in Dollars.
- (ii) The Borrower shall not cancel the commitments in respect of Replacement Debt unless the funds under the cancelled commitment are not reasonably expected to be necessary to achieve the Project Completion Date by the Date Certain (as confirmed by the TCF Administrative Agent in consultation with the Independent Engineer).
 - (iii) From and after April 1, 2025, all proceeds of Replacement Debt shall be applied to the mandatory prepayment of the outstanding Construction/Term Loans and the outstanding "Construction/Term Loans" under and as defined in the CD Credit Agreement on a *pro rata* basis in accordance with Section 4.10(a)(iii) prior to the application thereto to any other Replacement Debt or any Supplemental Debt. The Borrower shall not incur any Replacement Debt or Supplemental Debt that would result in an inability to comply with this Section 9.4(c)(iii).
- (d) Relevering Debt. Notwithstanding Section 2.5 (*Relevering Debt*) of the Common Terms Agreement, the Borrower shall not incur Relevering Debt prior to the Credit Agreement Discharge Date other than Reinstatement Debt.
 - (e) Working Capital Debt. The Borrower shall not incur Working Capital Debt (other than Working Capital Debt incurred under this Agreement) prior to the Credit Agreement Maturity Date unless no Default or Event of Default has occurred and is continuing or could reasonably be expected to occur after giving effect to and as a result of the incurrence of the Working Capital Debt and such Working Capital Debt is denominated in Dollars. Prior to the Credit Agreement Maturity Date, the Borrower shall not incur Working Capital Debt in excess of

\$3,000,000,000 (including the Working Capital Debt incurred under the CD Credit Agreement).

- (f) Supplemental Debt. The Borrower shall not incur Supplemental Debt prior to the Credit Agreement Maturity Date unless each of the conditions in Section 2.6 (*Supplemental Debt*) of the Common Terms Agreement are complied with and:
- (i) no Default or Event of Default has occurred and is continuing or could reasonably be expected to occur after giving effect to and as a result of the incurrence of the Supplemental Debt;
 - (ii) the aggregate principal amount of all Supplemental Debt (other than Funding Shortfall Debt) at any time outstanding does not exceed \$400,000,000;
 - (iii) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Supplemental Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the Notional Amortization Period shall not be less than 1.45:1.00; provided, that, for purposes of this Section 9.4(f), the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume that all commitments for Supplemental Debt will be fully drawn as of the date on which such Supplemental Debt is incurred;
 - (iv) the weighted average life to maturity of the Supplemental Debt shall be longer than the weighted average life to maturity of the then outstanding Construction/Term Loans prior to the incurrence of such Supplemental Debt;
 - (v) the final maturity date of the Supplemental Debt shall occur after the Credit Agreement Maturity Date; and
 - (vi) such Supplemental Debt is denominated in Dollars.
- (g) Terms of Senior Secured Debt Instruments. In addition to the requirements set forth in the Common Terms Agreement, concurrently with the certificate of the Borrower provided in accordance with Section 2.3(d) (*Working Capital Debt*), Section 2.4(c) (*Replacement Debt*), Section 2.5(c) (*Relevering Debt*), and Section 2.6(c) (*Supplemental Debt*) of the Common Terms Agreement, the Borrower shall deliver to the TCF Administrative Agent a copy of each proposed Senior Secured Debt Instrument relating to the relevant Senior Secured Debt (which may be an amendment to an existing Senior Secured Debt Instrument), which copy shall disclose the material terms, permitted uses, and the tenor and amortization schedule of such Senior Secured Debt and the rate, or the rate basis and margin in the case of a floating rate, at which such Senior Secured Debt shall bear interest, and (if applicable) commitment fees or other premiums relating thereto.

(h) Executed Copies of Senior Secured Debt Instruments.

- (i) Concurrently with the delivery of each Common Terms Accession Agreement and CIA Accession Confirmation pursuant to Section 2.7 (*Accession Agreements*) of the Common Terms Agreement, the Borrower shall deliver to the TCF Administrative Agent a copy of the relevant duly executed Senior Secured Debt Instrument.
- (ii) The Borrower shall promptly provide to the TCF Administrative Agent copies of all amendments, modifications and waivers to any Senior Secured Debt Instrument; provided, that such amendments, modifications and waivers shall only be made in accordance with terms and conditions set forth in the Collateral and Intercreditor Agreement and the relevant Senior Secured Debt Instrument.
- (i) Notwithstanding anything set forth in this Agreement to the contrary, the Borrower may incur Replacement Debt, Relevering Debt, or Supplemental Debt if all Construction/Term Loans outstanding immediately prior to the incurrence thereof will be repaid in full or returned and cancelled, as the case may be, and all remaining available Construction/Term Loan Commitments are terminated.
- (j) The Borrower shall not incur any Indebtedness to fund the development of any Train Facility (as defined in the Definitions Agreement) other than the P1 Train Facilities without the consent of all Senior Lenders.
- (k) For the avoidance of doubt, (i) if the incurrence of any Indebtedness is permitted under the Common Terms Agreement (including pursuant to Section 5.4 (*Restrictions on Indebtedness*), Section 2.3 (*Working Capital Debt*), Section 2.4 (*Replacement Debt*), Section 2.5 (*Relevering Debt*), or Section 2.6 (*Supplemental Debt*) of the Common Terms Agreement) but disallowed pursuant to this Section 9.4, such incurrence shall not be permitted prior to the Credit Agreement Discharge Date and (ii) CD Senior Loans, CD Senior Notes and any Extension Amendment (as such term is defined in the CD Credit Agreement) shall not be deemed to be a "Replacement Debt", "Relevering Debt", or "Supplemental Debt" and shall be deemed permitted under this Agreement.

9.5. Interest Rate Hedging Agreements

The Borrower shall not permit the aggregate notional amounts (after giving effect to any Offsetting Transactions) under the Senior Secured IR Hedge Agreements in respect of any Quarterly Payment Date to exceed at any time, except for a period of no more than 45 consecutive days immediately following any prepayment of any Senior Secured Debt, 110% of the Projected Principal Amount of all Senior Secured Debt on such Quarterly Payment Date; provided, that, for purposes of calculating the foregoing percentages, (a) the principal balance of any Working Capital Debt shall be excluded, and (b) any Senior Secured Debt which bears a fixed interest rate shall be deemed subject to a Senior Secured IR Hedge Agreement.

9.6. Transactions with Affiliates

- (a) The Borrower will not, directly or indirectly, enter into any Affiliate Transaction except: (i) (A) the Project Documents in existence on the Closing Date, (B) any Affiliate Transactions required or contemplated by such Project Documents, and (C) any amendments to or replacements of such contracts, agreements or understandings referenced in this clause (i); (ii) to the extent required by Government Rules or Government Approvals; (iii) upon terms no less favorable to the Borrower than would be obtained in a comparable arm's-length transaction with a Person that is not an Affiliate (based on then-current market conditions for transactions of a similar nature and duration and taking into account such factors as the characteristics of the goods and services, the market for such goods and services (including any applicable regulatory conditions), tax effects of the transaction, the location of the Project and the counterparties), or, if no comparable arm's-length transaction with a Person that is not an Affiliate is available, then on terms reasonably determined by the Borrower to be fair and reasonable; (iv) in respect of Permitted Subordinated Debt; (v) any officer or director indemnification agreement or any similar arrangement entered into by the Borrower in the ordinary course of business and payments pursuant thereto; (vi) any sale of Credit Agreement Supplemental Quantities of LNG; (vii) Distributions made in accordance with the TCF Financing Documents; and (viii) any Sub-Charter Agreements.
- (b) For the avoidance of doubt, if the entering into of any Affiliate Transaction is permitted under Section 5.11 (*Transactions with Affiliates*) of the Common Terms Agreement but disallowed pursuant to this Section 9.6, such Affiliate Transaction shall not be permitted prior to the Credit Agreement Discharge Date.

9.7. Involuntary Liens of RG Facility Entities

The Borrower will not permit any Involuntary Liens to exist upon the Properties of any RG Facility Entity, other than such Involuntary Liens that are RG Facility Entity Permitted Liens.

9.8. Energy Regulatory

The Borrower shall not be or become (nor shall it permit any RG Facility Entity to be or become) subject to regulation (a) as a "natural-gas company" as such term is defined in the Natural Gas Act except to the extent that the Borrower (or any RG Facility Entity) is considered so when offering transportation services solely for the purpose of releasing firm transportation capacity on Rio Bravo Pipeline, LLC or other interstate natural gas pipeline, (b) under PUHCA, (c) as a "public utility," as defined in the Federal Power Act, (d) under PURA or the PUCT Substantive Rules of the State of Texas as a "public utility," or an "electric utility", or be subject to rate regulation in the same manner as an "electric utility," "public utility," "retail electric provider," "power marketer" or "transmission and distribution utility," or (e) as a "gas utility" or be subject to rate regulation in the same manner as a "gas utility" pursuant to GURA.

9.9. Use of Proceeds

The Borrower shall not apply the proceeds of the Construction/Term Loans other than for the purposes set forth in Section 2.1(d).

9.10. Distributions

- (a) The Borrower will not make or agree to make, directly or indirectly, any Distributions (other than Extraordinary Distributions) unless on the Distribution Date each of the following conditions has been satisfied:
 - (i) No Default or Event of Default has occurred and is continuing;
 - (ii) (A) no actual LNG Sales Mandatory Prepayment Event or Unmatured LNG Sales Mandatory Prepayment Event has occurred and is continuing as of the date of the proposed Distribution in respect of which the prepayment or cancellation of Senior Secured Debt, if any, required by the occurrence of such event pursuant to Section 8.5(b) has not been made in full or (B) P1 Distribution Collateral has been provided to the P1 Collateral Agent in an amount equal to the lesser of (1) the amount of the Distribution that is proposed to be made and (2) the maximum amount that would be mandatorily payable pursuant to Section 8.5(b) as a result of the relevant LNG Sales Mandatory Prepayment Event, that will be drawn or called and deposited in cash in accordance with the P1 Accounts Agreement by the Borrower in the event that a mandatory prepayment of Senior Secured Debt is triggered pursuant to Section 8.5(b) if the Borrower does not have sufficient cash available pursuant to Section 3.11(f) (*P1 Debt Prepayment Account*) of the P1 Accounts Agreement to make such mandatory prepayment;
 - (iii) (A) the Historical DSCR as of the Fiscal Quarter most recently ended is at least 1.25:1.00 and (B) the Credit Agreement Projected DSCR for the next four Fiscal Quarter period is at least 1.25:1.00;
 - (iv) the TCF Senior Loan DSRA is funded in accordance with the P1 Accounts Agreement in an amount equal to or greater than its then-required DSRA Reserve Amount;
 - (v) the Term Conversion Date has occurred; and
 - (vi) the Borrower shall have delivered to the TCF Administrative Agent a certificate of an Authorized Officer of the Borrower (A) to the effect that all conditions for a Distribution in Section 5.10 (*Distributions*) of the Common Terms Agreement and this Section 9.10 has been satisfied and (B) setting forth in reasonable detail the calculations for computing each of the Historical DSCR and the Credit Agreement Projected DSCR for the relevant periods in clause (iii) above.
- (b) The Borrower will not make or agree to make, directly or indirectly, (i) any Pre-Completion Revenue Distributions unless on the Distribution Date (A) the Pre-

Completion Distribution Release Conditions (as defined in the P1 Accounts Agreement) and (B) the CD Pre-Completion Distribution Release Conditions have been satisfied or waived, (ii) any Extraordinary Distributions contemplated by clause (e) of the definition thereof with respect to Extraordinary Distributions under clause (e) of the definition of P1 Project Costs unless as of the Distribution Date, the conditions precedent in Section 7.2 have been satisfied or waived, or (iii) any Extraordinary Distributions contemplated by clause (i) of the definition of P1 Project Costs unless, after giving pro-forma effect to such Extraordinary Distribution, no funding shortfall in the Construction Budget and Schedule would occur as a result of such Extraordinary Distribution.

- (c) For the avoidance of doubt, if any Distribution is permitted under Section 5.10 (*Distributions*) of the Common Terms Agreement but disallowed pursuant to this Section 9.10, such Distribution shall not be permitted prior to the Credit Agreement Discharge Date.

9.11. [Reserved]

9.12. RG Facility Entity Voting

The Borrower shall not exercise any voting, consent, or other rights or powers in respect of its Equity Interests in any RG Facility Entity in a way so as to allow such RG Facility Entity to:

- (a) change its legal form, amend its limited liability company agreement or any other constitutive document, merge into or consolidate with, or acquire (in one transaction or series of related transactions) all or any portion of any business, any Equity Interests in or any material part of the assets or property of any other Person or liquidate, wind up, reorganize, terminate or dissolve;
- (b) engage in any business or activities other than the development, engineering, construction, commissioning, operation and maintenance of the Rio Grande Facility and expansions to or modifications of the Rio Grande Facility and any activities incidental thereto made in accordance with the Credit Agreement Transaction Documents to which such Person is a party;
- (c) dispose of, in one transaction or a series of transactions, any portion of the Land or any lease, easement or other interest in the Land that is material to the development, engineering, construction, commissioning, operation or maintenance of the Rio Grande Facility;
- (d) dispose of, in one transaction or a series of transactions, any portion of the Common Facilities or any other Properties or assets of any RG Facility Entity, other than (i) sales or other dispositions of assets comprising the Common Facilities or such other Properties or assets that are no longer used or useful in the business of the Rio Grande Facility in the ordinary course of the Rio Grande Facility's business and that could not reasonably be expected to result in a Material Adverse Effect, (ii) any dividend or other distribution by the RG Facility Entity (in cash or Cash Equivalents) in accordance with the Facility Subsidiary Document of such RG Facility Entity, including proceeds CFCo receives from

any other Liquefaction Owner pursuant to Section 12.3 *Contributions to CFCo*) or Section 14.4.4 *(Mandatory Capital Improvements)* of the CFAA, (iii) dispositions of any insurance proceeds received by InsuranceCo in accordance with the CFAA and the other Project Documents, or (iv) any other payments, transfers, or other dispositions of cash or Cash Equivalents made in accordance with the Project Documents and Permitted Investments to the extent so paid, transferred, or disposed of in accordance with the Common Accounts Agreement;

- (e) suspend, cancel, or terminate any Material Government Approval applicable to such RG Facility Entity or consent to or accept any cancellation or termination thereof;
- (f) suspend, cancel, or terminate any Facility Easement Agreement or other agreement granting interests in the Land to the Borrower or consent to or accept any cancellation or termination thereof;
- (g) propose or consent to any amendment of any material provision of the LandCo Site Lease or the Common Facilities Sublease in an adverse manner;
- (h) directly or indirectly create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to any Indebtedness other than (i) Indebtedness of the types specified in clauses (c), (e), (f), (h), (i), (k), and (l) of the definition of Credit Agreement Permitted Indebtedness in each case, individually or in the aggregate of \$50,000,000 for all RG Facility Entities and (ii) to the extent constituting Indebtedness, any Indebtedness under any Material Project Document, the Facility Easement Agreements, the Tug Services Agreement (or any similar agreement or arrangement for the provision of tug services), the Train Facility Subleases, or the Common Facilities Sublease.
- (i) (other than as required or expressly permitted under the Credit Agreement Transaction Documents) create, assume, incur, permit, or suffer to exist any Lien upon the property of such RG Facility Entity, whether now owned or hereafter acquired, except for RG Facility Entity Permitted Liens;
- (j) take any action in respect of a Common Account that is not permitted by the TCF Financing Documents;
- (k) employ any employees;
- (l) sponsor, maintain, administer, or have any obligation to contribute to, or any liability under any defined benefit pension plan subject to Title IV of ERISA or Section 412 of the Code or any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA or plan that provides for post-retirement welfare benefits;
- (m) acquire any class of stock of (or other Equity Interest in) another Person;
- (n) (other than (x) the entry by InsuranceCo into any contract, undertaking, or agreement contemplated by the Insurance Program and (y) the entry into any

Material Project Documents, the Facility Easement Agreements, the Tug Services Agreement (or any similar agreement or arrangement for the provision of tug services), the Train Facility Subleases, or the Common Facilities Sublease) enter into any contract, undertaking, agreement or other instrument (i) providing for payments or revenue receipts by any RG Facility Entity in excess of \$10,000,000 in any twelve-month period or (ii) a termination of which could reasonably be expected to result in a Material Adverse Effect;

- (o) contest or disaffirm the enforceability of any RG Facility Agreement;
- (p) open or become the beneficiary of any bank account other than as permitted by the RG Facility Agreements or the Common Accounts Agreement;
- (q) change its accounting or financial reporting policies other than as permitted in accordance with GAAP; or
- (r) delegate any of the Borrower's voting rights under any Facility Subsidiary Document to any other Person other than the P1 Intercreditor Agent in the event of an Enforcement Action (as defined in the Collateral and Intercreditor Agreement).

For the avoidance of doubt, if any vote, consent or other right is permitted under Section 5.12 *RG Facility Entity Voting*) of the Common Terms Agreement but disallowed pursuant to this Section 9.12, such vote, consent or other right shall not be permitted prior to the Credit Agreement Discharge Date.

9.13. Material Project Documents

- (a) The Borrower shall not:
 - (i) sell, transfer, assign or otherwise dispose of (by operation of law or otherwise) or consent to any such sale, transfer, assignment or disposition of its interest in or rights or obligations under any Material Project Document except (A) assignments pursuant to the Senior Security Documents and (B) assignments pursuant to the Precedent Agreement Administration Agreement;
 - (ii) consent to any sale, transfer, assignment or disposition of any Material Project Party's interest in or rights or obligations under any Material Project Document (if the Borrower has such consent rights under the applicable Material Project Document) except **for** (A) as could not reasonably be expected to have a Material Adverse Effect, (B) any assignments and transfers permitted or contemplated in the P1 Collateral Documents, and (C) assignments by a counterparty to its Affiliate as contemplated in, and in accordance with the terms of, the applicable Material Project Document;
 - (iii) approve any Major Decision;

- (iv) initiate or settle an arbitration proceeding under any Material Project Document unless the initiation or settlement of such arbitration proceeding could not reasonably be expected to have a Material Adverse Effect or an Event of Default; or
 - (v) agree to any amendment or modification, or waiver of, or waiver relating to any Material Project Document to which it is a party that could reasonably be expected to have a Material Adverse Effect; provided, that (A) Change Orders not prohibited by Section 9.13(d) shall in any case be permitted and (B) amendments or modifications to, or waivers under, Credit Agreement Designated Offtake Agreements as permitted under Section 9.13(b) shall in any case be permitted.
- (b) The Borrower shall not agree to:
- (i) any amendment or modification of the price or quantity provisions of any Credit Agreement Designated Offtake Agreement:
 - (A) if such amendment or modification results in a breach of Section 9.14(a); and
 - (B) unless after giving effect to such amendment or modification, (excluding principal amounts and commitments in respect of any Working Capital Debt) the Credit Agreement Projected DSCR for the period starting from the first Quarterly Payment Date for the repayment of principal after the date of such amendment or modification to the end of the calendar year in which such Quarterly Payment Date occurs, and for each calendar year thereafter through the Latest Qualified Term of the Qualified Credit Agreement Designated Offtake Agreements in effect at such time, is at least 1.45:1.00; or
 - (ii) any amendment or modification of any Credit Agreement Designated Offtake Agreement that:
 - (A) could reasonably be expected to have a Material Adverse Effect;
 - (B) would not be on Market Terms with respect to the Borrower; or
 - (C) would otherwise be materially inconsistent with the terms of the TCF Financing Documents.
 - (c) Unless required or contemplated by (x) a Material Project Document to which it is a party (including any replacement or substitute Material Project Document and any guarantee thereof), (y) this Agreement, or (z) any other TCF Financing Document, the Borrower shall not enter into any Additional Material Project Document without the prior written consent of the Majority Senior Lenders; provided, that such consent will not be required if such Additional Material Project Document is:

- (i) substantially in the form of such agreement (or an equivalent agreement) in place as of the Closing Date;
 - (ii) a Credit Agreement Designated Offtake Agreement (and any guaranty thereof) that meets the conditions in Section 8.5 or any other Offtake Agreement permitted by Section 9.14;
 - (iii) a Time Charter Party Agreement (other than the Initial Time Charter Party Agreements) that meets the conditions set forth in Section 8.10;
 - (iv) entered into by the Borrower in connection with a Capital Improvement permitted by Section 9.15 and Section 5.14 (*Capital Improvements*) of the Common Terms Agreement; and
 - (v) the APCI License Agreement.
- (d) The Borrower shall not, nor shall it permit the P1 CASA Advisor to, except for Change Orders specified in Schedule 9.13(d), without the consent of the TCF Administrative Agent (upon the approval of the Majority Senior Lenders in consultation with the Independent Engineer), initiate or consent to any Change Order or Change Directive (as defined in the P1 EPC Contracts) that:
- (i) increases the aggregate contract price payable under the P1 EPC Contracts as of the Closing Date; provided, that:
 - (A) the Borrower may, subject to the remainder of this Section 9.13(d), enter into any Change Order or make payment of any claim under the P1 EPC Contracts, if (1) the TCF Administrative Agent has received an IE Confirming Certificate and (2) the amount of such Change Order is equal to or less than \$50,000,000 (taking into account increases and decreases within such Change Order on a net basis and calculated, in the case of a Change Order arising due to loss or damage to Project assets, after taking into account insurance proceeds reasonably expected to be available under its insurance policies to cover such loss or damage and permitted to be so applied in accordance with the terms of the TCF Financing Documents) so long as the aggregate amount of all Change Orders under this clause (A) (taken together on a net basis) does not exceed \$500,000,000;
 - (B) if the P1 EPC Contractor requests a Required EPC Change Order to which it is entitled under the terms of a P1 EPC Contract then, subject to the remainder of this Section 9.13(d), the Borrower shall be entitled to authorize such change without first obtaining the consent of the TCF Administrative Agent if the amount of such change is within the remaining Contingency set forth in the Construction Budget and Schedule, or to the extent that such amount exceeds such remaining Contingency, (x) the aggregate commitment under the P1 Equity Contribution Agreement has been irrevocably and unconditionally increased in the amount at

least sufficient to cover such excess amount or (y) the Borrower certifies to the TCF Administrative Agent that it reasonably expects to have (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, committed equity and projected Contracted Revenues under the Credit Agreement Designated Offtake Agreements) sufficient funds in addition to those already set forth in the then current Construction Budget and Schedule for such excess amount; and

- (C) the Borrower may enter into any Change Order under the P1 EPC Contracts for amounts in excess of the amounts specified in Section 9.13(d)(i)(A) but subject to the remainder of this Section 9.13(d); provided, that, with respect to this Section 9.13(d)(i)(C), (1) the TCF Administrative Agent has received an IE Confirming Certificate and (2) the amount of such change is within the remaining Contingency set forth in the Construction Budget and Schedule, or to the extent that such amount exceeds such remaining Contingency, (x) the aggregate commitment under the P1 Equity Contribution Agreement has been irrevocably and unconditionally increased in the amount at least sufficient to cover such excess amount or (y) the Borrower certifies to the TCF Administrative Agent that it reasonably expects to have (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, and committed equity) sufficient funds in addition to those already set forth in the then current Construction Budget and Schedule for such excess amount;
- (ii) extends any Guaranteed Substantial Completion Date under and as defined in the P1 EPC Contracts to a date that could reasonably be expected to result in the failure by the Borrower to achieve Substantial Completion under each P1 EPC Contract by the Date Certain;
- (iii) except as otherwise permitted pursuant to the terms hereof or as a result of a Required EPC Change Order (provided, that the Independent Engineer concurs (which concurrence shall not be unreasonably withheld, conditioned or delayed) to the Borrower's consent to such Change Order pursuant to such P1 EPC Contract), modifies the Performance Guarantees of the P1 EPC Contractor pursuant to a P1 EPC Contract or the criteria or procedures for the conduct or measuring of the results of the performance tests under any P1 EPC Contract, in each case in a manner that could reasonably be expected to have a material adverse effect on the Borrower's ability to meet its LNG delivery obligations under each of its then-existing Credit Agreement Designated Offtake Agreements or otherwise have a material adverse effect on the ability of the Borrower to achieve the Term Conversion Date by the Date Certain;

- (iv) adjusts the payment schedule under any P1 EPC Contract or provides a bonus to be paid to the P1 EPC Contractor thereunder, other than if such changes are made to track changes in the payment schedule as a result of any Change Order that is (1) permitted under this Section 9.13(d) or (2) a Required EPC Change Order;
 - (v) causes any material component or material design feature or aspect of the Project to materially deviate in any fundamental manner from the description thereof set forth in the schedules, exhibits, appendices or annexes to the P1 EPC Contracts (other than as the result of a Change Order which is permitted by Section 9.13(d)(i) above, any Required EPC Change Order, or otherwise permitted by this Agreement);
 - (vi) (A) reduces the per-day nominal dollar value of any of the delay liquidated damages provisions or the per-percentage shortfall nominal dollar value of any of the performance liquidated damage provisions under such P1 EPC Contract or (B) waives or otherwise releases the P1 EPC Contractor from any liability to pay any such delay or performance liquidated damages which would otherwise be due and owing under such P1 EPC Contract (provided, that a Required EPC Change Order that the P1 EPC Contractor is entitled to under a P1 EPC Contract that modifies a Guaranteed Substantial Completion Date (as defined in the applicable P1 EPC Contract) and that is in compliance with Section 9.13(d)(ii) shall not be deemed to violate this clause (B));
 - (vii) waives or results in an adverse modification of the specific provisions under such P1 EPC Contract setting forth the terms of default, termination, or suspension or constitutes a waiver by the Borrower of any event that, with the giving of notice or the lapse of time or both, would entitle the Borrower to terminate the P1 EPC Contracts;
 - (viii) except as a result of a Required EPC Change Order, impairs the ability of the Project to satisfy the Minimum Acceptance Criteria or Performance Guarantees ~~and~~ under the P1 EPC Contracts;
 - (ix) results in the revocation or adverse modification of any Material Government Approval that could reasonably be expected to (A) impair the ability of the Project to satisfy the Minimum Acceptance Criteria or Performance Guarantees under the P1 EPC Contracts or to achieve Substantial Completion under and as defined in the P1 EPC Contracts by the Term Conversion Date or (B) materially adversely affect the Borrower's ability to satisfy its obligations under its Credit Agreement Designated Offtake Agreements; and
 - (x) cause the Borrower or the Project not to comply with Sections 8.4(b) and 8.7(a).
- (e) Notwithstanding anything to the contrary in the Common Terms Agreement or any other TCF Financing Document, any Guaranteed Substantial Completion Date (as defined in each P1 EPC Contract) shall not be modified by any Change

Order unless the execution of such Change Order is permitted hereby or has been approved by the Majority Senior Lenders.

- (f) The Borrower shall not provide its consent to the Pipeline Manager under Section 1, Section 2, or Section 3 of the Gas Supply Letter Agreement without the prior written consent of the TCF Administrative Agent.

9.14. Offtake Agreements

The Borrower shall not enter into any Offtake Agreements other than (a) Credit Agreement Designated Offtake Agreements and (b) Offtake Agreements in respect of Credit Agreement Supplemental Quantities of LNG of any duration, on any terms and to buyers of any credit quality so long as (i) each buyer thereunder is instructed to pay the proceeds of sales of LNG (A) prior to the Term Conversion Date, the P1 Pre-Completion Revenue Account ~~(as defined in the P1 Accounts Agreement)~~ and (B) after the Term Conversion Date, the P1 Revenue Account, and (ii) performance under such Offtake Agreement could not reasonably be expected to have a material adverse effect on the ability of the Borrower to meet its obligations under the Credit Agreement Designated Offtake Agreements.

9.15. Capital Improvements

- (a) Subject to Section 9.15(b) and notwithstanding anything to the contrary in Section 5.14 *Capital Improvements* of the Common Terms Agreement, the Borrower shall not make any Discretionary Capital Improvements that are Major Capital Improvements or are funded by Supplemental Debt unless (i) (A) the plans and specifications of such Discretionary Capital Improvement have been reviewed and confirmed reasonable by the Independent Engineer in the Capital Improvement IE Certificate and (B) the Independent Engineer confirms in the Capital Improvement IE Certificate that such Discretionary Capital Improvement could not reasonably be expected to have a material and adverse impact on the Project or (ii) such Capital Improvements constitute Restoration Work.
- (b) The Borrower may only fund Permitted Capital Improvements using (i) proceeds of Supplemental Debt, (ii) capital contributions or Permitted Subordinated Debt provided by the Pledgor or the Equity Owners that are in addition to the Cash Equity Financing, (iii) such funds on deposit in the **Distribution Account or the** P1 Distribution Reserve Account that are permitted to be distributed pursuant to Section 3.7 (*P1 Distribution Reserve Account*) of the P1 Accounts Agreement, (iv) subject to Section 8.16(c), Loss Proceeds, or (v) Indebtedness referred to in clause (m) of the definition of Credit Agreement Permitted Indebtedness. Prior to the commencement of work on such Permitted Capital Improvements, the Borrower shall provide evidence satisfactory to the TCF Administrative Agent that it has funds required to pay its allocated share of such Permitted Capital Improvements under the CFAA from the sources described in the previous sentence.

9.16. Material Government Approvals

The Borrower shall not amend or modify a Material Government Approval or any conditions thereof; provided, that the Borrower may amend or modify such Government Approvals and any conditions thereof so long as such amendment or modification could not reasonably be expected to have a Material Adverse Effect or result in the Impairment of the DOE Export Authorization.

9.17. Performance Tests

The Borrower shall not permit any Performance Test to be performed without giving the TCF Administrative Agent and the Independent Engineer at least five Business Days prior written notice of such Performance Test (or such shorter period as agreed by the Independent Engineer).

9.18. Historical DSCR

- (a) Together with the delivery of financial statements in accordance with Section 10.1(a) in respect of each full Fiscal Quarter occurring after the Initial Principal Payment Date, the Borrower shall calculate and deliver to the TCF Administrative Agent its calculation of the Historical DSCR.
- (b) The Borrower shall not permit the Historical DSCR as of the end of any Fiscal Quarter from and following the Initial Principal Payment Date to be less than 1.10 to 1.00; provided, that a failure to meet the required ratio as a result of a failure to maintain a Credit Agreement Designated Offtake Agreement shall be addressed pursuant to Section 8.5(a) and not pursuant to this Section 9.18; provided, further, that, notwithstanding anything to the contrary herein or in any TCF Financing Document, if the Historical DSCR as of the end of any Fiscal Quarter following the Initial Principal Payment Date is (or would be) less than 1.10 to 1.00, then any direct or indirect owner of the Borrower shall have the right to provide cash to the Borrower, not later than twenty Business Days following the date of delivery of the calculation of the Historical DSCR as required pursuant to Section 9.18(a) by (A) transferring from the Distribution Account to the P1 Revenue Account or (B) causing the Equity Owners to deposit in the P1 Revenue Account such amount as, when added to the otherwise applicable Cash Flow for purposes of calculating Historical CFADS for the applicable period, would cause the Historical DSCR for such period to equal or exceed 1.10 to 1.00 (and upon such transfer or deposit, any default under this Section 9.18(b) shall be deemed immediately cured) provided, that the Borrower shall not have the right to cure a default of this Section 9.18(b) by operation hereof in respect of more than four Fiscal Quarters in aggregate over the term of the Construction/Term Loans).

9.19. Accounts

The Borrower shall not open or maintain, or permit or instruct any other Person to open or maintain on its behalf, or use or be the beneficiary of any account other than the P1 Accounts, the Common Accounts, and the Distribution Account (if applicable).

9.20. GAAP

The Borrower shall not change its Fiscal Year without the prior written consent of the TCF Administrative Agent. The Borrower shall not change its accounting or financial reporting policies other than as permitted in accordance with GAAP.

9.21. Margin Stock

The Borrower shall not use any part of the proceeds of any Construction/Term Loans to purchase or carry any Margin Stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying any Margin Stock. The Borrower shall not use any proceeds of the Construction/Term Loans in a manner that could violate or be inconsistent with the provisions of Regulation T, Regulation U, or Regulation X of the Board of Governors of the Federal Reserve System, or any regulations, interpretations or rulings thereunder.

9.22. Sanctions

The Borrower shall not, and shall not permit or authorize any Person to, directly or knowingly indirectly, have any investment in or engage in any dealing or transaction (including using, lending, making payments of, contributing or otherwise making available, all or any part of, the proceeds of the Construction/Term Loans or other transactions contemplated by this Agreement or any other TCF Financing Document), with any Person if such investment or transaction (i) involves or is for the benefit of any Restricted Person or any Sanctioned Country except to the extent permitted for a Person required to comply with Sanctions Regulations, (ii) would cause any Lender or any Affiliate of such Lender to be in violation of, or the subject of, applicable Sanctions Regulations, or (iii) in any other manner that could reasonably be expected to result in any Person (including any Person participating in the Construction/Term Loans) being in breach of any Sanctions Regulations (if any to the extent applicable to any of them) or becoming a Restricted Person.

10. REPORTING COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in Article 6 (*Reporting Requirements*) of the Common Terms Agreement and each of the following supplemental obligations set forth in this Article 10 in favor and for the benefit of the TCF Administrative Agent and each Senior Lender.

10.1. Financial Statements

As soon as available and in any event prior to the date specified below the Borrower shall deliver:

- (a) on or prior to the sixtieth day after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Borrower:

- (i) unaudited consolidated statements of income and cash flows of the Borrower for such period and for the period from the beginning of the respective Fiscal Year to the end of such period; and
- (ii) the related unaudited balance sheet as at the end of such period,

setting forth, in each case, in comparative form the corresponding figures for the corresponding period in the preceding Fiscal Year; provided, that the Borrower shall not be required to deliver comparative financial statements for the first three Fiscal Quarters following the Closing Date.

- (b) on or prior to the 120th day after the end of each Fiscal Year of the Borrower, audited consolidated statements of income, member's equity and cash flows of the Borrower for such year and the related audited balance sheets as at the end of such Fiscal Year, and accompanied by an opinion of Grant Thornton LLP or other independent certified public accountants of recognized national standing, which opinion shall state that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower as at the end of, and for, such Fiscal Year on a consolidated basis in accordance with GAAP;
- (c) concurrently with the delivery of the financial statements pursuant to Section 10.1(a) or Section 10.1(b):
 - (i) a certificate executed by the Borrower certifying that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower on the dates and for the periods indicated in accordance with GAAP, subject, in the case of quarterly financial statements to the absence of notes and normal year-end audit adjustments; and
 - (ii) a certificate executed by the Borrower certifying that, no Default or Event of Default or default or event of default under any Senior Secured Debt Instrument exists as of the date of such certificate or, if any default or event of default under any Senior Secured Debt Instrument exists, describing the same in reasonable detail and describing what action the Borrower has taken and proposes to take with respect thereto.
- (d) To the extent that the RG Facility Entities are not consolidated with the Borrower for purposes of the Borrower's financial statements and thus not included on a consolidated basis in the financial statements furnished pursuant to Section 10.1(a) and Section 10.1(b) above, the Borrower shall, concurrently with the delivery of the financial statements furnished pursuant to Section 10.1(a) and Section 10.1(b) above, deliver to the TCF Administrative Agent copies of quarterly unaudited and annual audited financial statements for the RG Facility Entities, respectively.

10.2. Notice of Defaults, Events of Default and Other Events

As soon as practicable and in any event, unless otherwise specified, the Borrower shall deliver within five Business Days after the Borrower obtains Knowledge of any of the following, written notice to the TCF Administrative Agent of:

- (a) any Default or Event of Default and describing any action being taken or proposed to be taken with respect thereto;
- (b) any cessation of material activities related to the development, construction, operation and/or maintenance of the Project not otherwise reflected in the Construction Budget and Schedule and that could reasonably be expected to exceed sixty consecutive days;
- (c) change in ultimate beneficial ownership information of Borrower required to be provided in the Beneficial Ownership Certification most recently delivered to the TCF Administrative Agent;
- (d) any event, occurrence or circumstance that could reasonably be expected to cause (i) an increase of more than \$150,000,000 individually or in the aggregate in P1 Project Costs or (ii) the actual expenditure with respect to any category of expenditure or any line item contained in the Annual Facility Budget to exceed the budgeted amount set forth in the Annual Facility Budget by any amount that would give rise to a vote of one or more Liquefaction Owners pursuant to the CFAA;
- (e) (i) the outage or disability of any Train Facility or Common Facilities for a period of longer than seven days (except for regularly scheduled outages) or (ii) any event which would entitle the Borrower to receive liquidated damages pursuant to Section 14.2.8 (*Subsequent Train Facilities*) of the CFAA or to receive and schedule "Default Quantities" pursuant to Section 14.2.9 (*Subsequent Train Facilities*) of the CFAA, and, in each case, any additional information available to the Borrower as may be reasonably requested by the P1 Intercreditor Agent in connection therewith;
- (f) any proposed appointment, removal or change in the identity of the Facility Independent Engineer pursuant to the CFAA;
- (g) any material dispute between any Loan Party and the relevant tax authorities;
- (h) **any** material litigation, arbitration, administrative proceeding, investigation, claim or proceeding and any material developments with respect thereto, in each case, relating to the Project (i) in which the amount involved is in excess of \$150,000,000 or (ii) that could reasonably be expected to have a Material Adverse Effect;
- (i) the commencement of commercial exports of LNG from the Rio Grande Facility;

- (j) any ERISA Event that could reasonably be expected to result in material liability to any Loan Party under ERISA or under the Code with respect to any Plan or Multiemployer Plan;
- (k) any event (other than any event specified above) that could reasonably be expected to have a Material Adverse Effect on the Project; and
- (l) copies of any similar notices to those set forth in this Section 10.2 or in Section 6.2 (*Notice of CTA Default, CTA Event of Default, and Other Events*) of the Common Terms Agreement given in connection with additional Working Capital Debt, Replacement Debt or Supplemental Debt, including any notices of any default or event of default under any other Senior Secured Debt Instrument.

10.3. Notices under Material Project Documents

- (a) Promptly upon delivery to any Material Project Party pursuant to a Material Project Document, the Borrower shall deliver to the TCF Administrative Agent copies of all material written notices or other material documents delivered to such Material Project Party by the Borrower (other than routine written notices or other documents delivered in the ordinary course of the administration of such agreements), including each of the notices set forth on Exhibit I (*Rio Grande Facility Notices*) to the CFAA.
- (b) Promptly upon such documents becoming available (and, in the case of the documents described in clauses (iv)-(viii) below, no later than two Business Days following receipt thereof), the Borrower shall deliver to the TCF Administrative Agent copies of all material written notices or other material documents received by the Borrower pursuant to any Material Project Document, other than routine written notices or other documents delivered in the ordinary course of administration of such agreements, but in any event including any notice or other document relating to (i) a failure by the Borrower to perform any of its material covenants or obligations under such Material Project Document; (ii) termination of a Material Project Document; (iii) a force majeure event under a Material Project Document; (iv) (x) any STF Development Plan (as defined in the Definitions Agreement) received, and, upon finalization, finalized, pursuant to Section 14.2 (*Subsequent Train Facilities*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and any additional information or notice of disagreement received or modification proposed pursuant to Section 14.2.5 (*Subsequent Train Facilities*) of the CFAA (together with any information and documents received in support thereof) and (y) any notice received pursuant to Section 14.2.11 (*Subsequent Train Facilities*) of the CFAA; (v) (x) any Capital Improvement Plan received, and, upon finalization, finalized, pursuant to Section 14.3 (*Capital Improvements Generally*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and (y) any Facility Independent Engineer confirmation received pursuant to Section 14.3.7 (*Capital Improvements Generally*) of the CFAA; (vi) (x) any Restoration Plan received, and, upon finalization, finalized, pursuant to Section 22.1 (*Notice; Restoration Plan*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and (y) any Facility Independent Engineer confirmation received pursuant to Section 22.2.3 (*Events of Loss*

Affecting Common Facilities) of the CFAA; (vii) each of the notices set forth on Exhibit I *Rio Grande Facility Notices*) to the CFAA; and (viii) each of the notices set forth in Section 2.2.3 *Delivery of Notices*) to the PAAA.

10.4. Construction Period Reports

- (a) The Borrower shall promptly, and in any event within five Business Days, after receipt from the P1 CASA Advisor, deliver to the TCF Administrative Agent and the Independent Engineer a copy of any material written statement, budget, plan or reports delivered to the Borrower under the P1 CASA (including any such statements, budget, plan or report with respect to the Rio Grande Facility) and all lien and claim waivers with respect to the Rio Grande Facility required to be delivered pursuant to Section 3.10(c) ***(Other Services)*** of the P1 CASA.
- (b) Not later than thirty days after the end of each month following the month during which the Closing Date occurs up to and including the month during which the Project Completion Date occurs, the Borrower shall deliver to the TCF Administrative Agent a monthly construction report from the Independent Engineer regarding the construction activities in relation to the Project carried out during such month based on the report delivered by the P1 CASA Advisor under Section 3.3(j) *(Requirements of Independent Engineers)* of the P1 CASA and such other information reasonably requested by the Independent Engineer.
- (c) The Borrower shall promptly, and in any event within five Business Days, after receipt from the P1 EPC Contractor, deliver to the TCF Administrative Agent and the Independent Engineer a copy of the Substantial Completion Certificate (as defined in each of the P1 EPC Contracts) with respect to each of Train 1, Train 2, and Train 3.

10.5. Operating Period Reports

The Borrower shall promptly, and in any event within five Business Days, after receipt from the Operator, deliver to the TCF Administrative Agent and the Independent Engineer a copy of any operating and other reports (including production and maintenance forecasts, quarterly operating statements and monthly, semi-annual and annual operating reports and any other reports delivered pursuant to Section 3.7 *(Reports)* of the O&M Agreement) delivered to the Borrower under the O&M Agreement.

10.6. Other Documents and Information

The Borrower shall furnish the TCF Administrative Agent:

- (a) promptly after the filing thereof, a copy of each filing made by the Borrower (i) with FERC with respect to the Project and (ii) with DOE/FE with respect to the export of LNG from, or the import of LNG to, the Project, except in the case of clause (i) or (ii), such as are routine or ministerial in nature;
- (b) promptly after obtaining Knowledge thereof, a copy of each filing with respect to (i) the Project made with FERC by any Person other than the Borrower in any proceeding before FERC in which the Borrower is the captioned party or

respondent, except for such filings as are routine or ministerial in nature, or (ii) the import of LNG to, or the export of LNG from, the Project made with DOE/FE by any Person other than the Borrower in any proceeding before DOE/FE in which the Borrower is the captioned party or respondent, except for such filings as are routine or ministerial in nature;

- (c) any material amendment to any Material Government Approval, together with a copy of such amendment;
- (d) promptly after the filing thereof, a copy of each filing, certification, waiver, exemption, claim, declaration, or registration made with respect to Material Government Approvals or DOE Export Authorizations to be obtained or filed by the Borrower with any Government Authority, except such filings, certifications, waivers, exemptions, claims, declarations, or registrations that are routine or ministerial in nature and in respect of which a failure to file could not reasonably be expected to have a Material Adverse Effect or to materially Impair any DOE Export Authorization;
- (e) any material order issued by FERC or DOE/FE relating to the Project (including any Capital Improvement) or any Material Project Agreement; or
- (f) in the event any Replacement Debt, Supplemental Debt, or Working Capital Debt is incurred by the Borrower, a copy of any report from the Independent Engineer and any other consultant that the Holders of such Senior Secured Debt are entitled to receive.

10.7. Annual Budgets and Plans

- (a) Promptly, and in no event later than five Business Days after each such document is approved in accordance with the terms of the CFAA, the Borrower shall provide a copy of the Annual Facility Budget, the Annual Facility Plan, the Annual Operating Budget, the Annual Capital Budget, the Annual Operating Plan, and the Annual Capital Plan to the Independent Engineer and the TCF Administrative Agent.
- (b) Promptly, and in no event later than five Business Days after each document is approved in accordance with the terms of the O&M Agreement, the Borrower shall provide a copy of the Annual O&M Budget and the Annual O&M Plan to the Independent Engineer and the TCF Administrative Agent.

10.8. DSCR Certificates

Together with the delivery of financial statements in accordance with Section 10.1(a) and 10.1(b) in respect of each Fiscal Quarter occurring after the Project Completion Date, the Borrower shall deliver to the TCF Administrative Agent a certificate of an Authorized Officer of the Borrower setting forth (a) the Historical DSCR for the four Fiscal Quarter period ended on such Quarterly Payment Date and (b) the Credit Agreement Projected DSCR for the four Fiscal Quarter period commencing on such Quarterly Payment Date, in each case together with the calculation in reasonable detail and supporting data to confirm such calculations.

10.9. Additional Material Project Documents

- (a) No later than five Business Days after the execution thereof, the Borrower shall deliver copies of any Additional Material Project Documents to the TCF Administrative Agent.
- (b) No later than five Business Days after the execution thereof, the Borrower shall deliver copies of all material amendments, supplements or modifications (including any change order) of any Material Project Documents.

10.10. Environmental and Social Reporting

- (a) Prior to T1 Substantial Completion, the Borrower shall deliver to the TCF Administrative Agent copies of environmental and social information contained in periodic reports prepared by or for the Borrower, which will include a summary of the P1 EPC Contractor's performance against certain key performance indicators and other appropriate environmental and social statistics, such as (i) lost time incidents, (ii) oil spills and releases of hazardous materials, and (iii) other material environmental and social events.
- (b) Within sixty days following each June 30 and December 31 to occur after the Closing Date and prior to T1 Substantial Completion, the Borrower shall deliver to the TCF Administrative Agent and the Independent Engineer a semi-annual environmental and social report prepared by the Environmental Advisor analyzing the Borrower's compliance with the Equator Principles and the Environmental and Social Action Plan.
- (c) Within 120 days following December 31 of each calendar year prior to the Credit Agreement Maturity Date beginning with the first calendar year following the year in which T1 Substantial Completion has occurred, the Borrower shall deliver to the TCF Administrative Agent and the Independent Engineer an annual environmental and social report prepared by the Environmental Advisor analyzing the Borrower's compliance with the Equator Principles and the Environmental and Social Action Plan.
- (d) As soon as practicable and in any event, unless otherwise specified, within seven Business Days after the Borrower obtains Knowledge of any of the following, written notice to the TCF Administrative Agent of (i) any material Release of Hazardous Materials, (ii) any Environmental and Social Incident (which notice may be subject to subsequent investigation and clarification), (iii) any event or circumstance that could reasonably be expected to give rise to a material Environmental Claim, constitute a breach in any material respect of the Environmental and Social Action Plan, or result, or which has resulted, in a failure by the Borrower to comply in all material respects with Environmental Laws and the Equator Principles, and (iv) other material written notice from Government Authorities related to any of the foregoing or otherwise related to the need to investigate, respond, clean up, or remediate Hazardous Materials or any Environmental and Social Incident.

- (e) As soon as practicable and in any event, unless otherwise specified, within seven Business Days following either (i) delivery to the Borrower of any report prepared for the Borrower regarding any Environmental and Social Incident or (ii) the occurrence of a material development in respect of any Environmental and Social Incident, the Borrower shall deliver to the TCF Administrative Agent a notice, report or update, as applicable, from the Borrower (which may, but need not, be a copy of the report referred to in sub-clause (e)(i) above) in respect of such material development (and, for the avoidance of doubt, no such notice, report or update will require delivery of any document prepared for internal purposes).

10.11. Insurance Reporting

As soon as practicable and in any event, unless otherwise specified, the Borrower shall deliver within five Business Days after the Borrower obtains Knowledge of any of the following, written notice thereof to the TCF Administrative Agent of:

- (a) the occurrence of any Event of Loss or Event of Taking in excess of \$75,000,000 in value or any series of such events or circumstances during any twelve month period in excess of \$250,000,000 in value in the aggregate, or the initiation of any insurance claim proceedings with respect to any such Event of Loss or Event of Taking;
- (b) the occurrence of any event giving rise (or that could reasonably be expected to give rise) to a claim under any insurance policy maintained with respect to the Project in excess of \$75,000,000 with copies of any material document relating thereto that are available to the Borrower;
- (c) any failure to pay any premium, cancellation, termination, suspension, or actual or reasonably anticipated material reductions in the coverages or amounts of any insurance required pursuant to the Insurance Program;
- (d) any reduction in the financial rating of any insurer providing insurance such that the rating no longer meets the requirements set forth in the Insurance Program;
- (e) any notices or other documents delivered by or to the Borrower pursuant to Exhibit E (*Insurance Requirements*) of the CFAA;
- (f) any material claims on insurance carried by the P1 EPC Contractor under the P1 EPC Contracts and a summary of the progress and status of such claims;
- (g) the renewal or replacement of any insurance policy required under the Insurance Program, within thirty days thereof;
- (h) without prejudice to its other obligations under this Section 10.11 or the CFAA, any fact, event or circumstance that has caused, or that with the giving of notice, lapse of time or making of a determination would cause, it to be in breach of any provision of ~~this Section 10.11~~ Section 8.17 or the CFAA or the requirements of any of the insurance policies in the Insurance Program and (i) the steps it proposes to take in order to remedy such breach or, if such breach cannot be remedied, to mitigate the risk or liability to which the Project has been or shall reasonably be

expected to be exposed by virtue of the occurrence of such breach and (ii) its good faith estimate of the period required to implement, and the cost of, such steps; and

- (i) any information equivalent to the foregoing that the Borrower has received from CFCo or InsuranceCo with respect to the Insurance Program.

10.12. Gas Supply Reporting

For the Borrower's gas supply requirements in connection with its ~~then-Designated~~ **then-existing Credit Agreement Designated** Offtake Agreements, within 45 days following the end of each calendar quarter for the first two years after commissioning of the first Train under and as defined in the P1 EPC Contracts and, thereafter, within 45 days following the end of each June 30 and December 31 of each calendar year, the Borrower will deliver to the ~~P1 Intercreditor~~ **TCF Administrative** Agent reports on the status of its gas supply arrangements (excluding any commercially sensitive trade information) for the Project during the three- or six- month period prior to the end of such quarter or semi-annual period, as applicable, including:

- (a) a summary list of gas suppliers with which the Borrower entered into material gas supply contracts during the covered period; and
- (b) a summary of material gas purchases made and hedges entered into by the Borrower during the covered period, detailing aggregate outstanding contract volumes, remaining tenor (after commencement of services), price ranges of such gas purchases and hedges and aggregate gas purchase, price indexation used and hedge payables with respect to material gas supply contracts and hedges during such covered period.

10.13. Other Information

The Borrower shall provide to the TCF Administrative Agent such other information reasonably requested by the TCF Administrative Agent.

11. EVENTS OF DEFAULT

The CTA Events of Default set forth in Article 7 (*Events of Default*) of the Common Terms Agreement shall constitute Events of Default under this Agreement, subject to all of the provisions of such Article 7 (*Events of Default*) in the Common Terms Agreement, and each of the following events or occurrences set forth in this Article 11 shall be a supplemental Event of Default.

11.1. Non-Payment of Senior Secured Obligations

- (a) The Borrower shall (i) fail to pay when due any principal of any Construction/Term Loans (unless (x) such failure is caused by an administrative or technical error and (y) payment is made within three Business Days of its due date), (ii) fail to pay when due any interest in respect of the Construction/Term Loans, and such failure continues unremedied for a period of three Business Days, or (iii) fail to pay when due any Commitment Fees and such failure continues unremedied for a period of five Business Days.

- (b) The Borrower shall (i) fail to pay when due any principal of any Senior Secured Debt (other than Construction/Term Loans) in a principal amount in excess of \$125,000,000 unless (A) such failure is caused by an administrative or technical error and (B) payment is made within the cure period permitted pursuant to such Senior Secured Debt Instrument or (ii) fail to pay when due any interest on any Senior Secured Debt (other than Construction/Term Loans), any periodic settlement payment or termination payment in respect of any Senior Secured Hedge Agreement, or any commitment fees, letter of credit fees, or similar fee payable by it under any Senior Secured Debt Instrument (other than this Agreement) when due and, in each of the cases set forth in this clause (b), such failure continues unremedied beyond the cure period permitted pursuant to such Senior Secured Debt Instrument or Senior Secured Hedge Agreement, as applicable.
- (c) The Borrower shall fail to pay any other Senior Secured Obligation payable by it under any TCF Financing Document other than those set forth in Section 11.1(a) and Section 11.1(b) above and such failure continues unremedied for a period of ten Business Days.

11.2. Cross-Acceleration

Any default shall occur with respect to (x) any Senior Secured Debt or (y) any other Indebtedness of the Borrower (other than Senior Secured Debt and Permitted Subordinated Debt) having drawn or undrawn principal amounts in excess of \$125,000,000 in the aggregate and shall have continued beyond any applicable grace period, the effect of which has been to cause the entire amount of such Indebtedness under this Section 11.2 to become due (whether by redemption, purchase, offer to purchase or otherwise) and such Indebtedness under this Section 11.2 remains unpaid or the acceleration of its stated maturity unrescinded.

11.3. Breaches of Covenant

- (a) The Borrower defaults in the due performance and observance of any of its obligations under any of the following Section 8.1, Section 8.2(a), Section 9.2(b), Section 9.4, Section 9.9, Section 9.10, Section 9.12, or Section 9.18 of this Agreement.
- (b) The Borrower defaults in the due performance and observance of any of its obligations under (i) Section 8.7(a) (other than in relation to any Environmental Laws), Section 8.7(c), Section 8.7(d), Section 8.7(e), Section 9.2(a), Section 9.3(a) or Section 9.22 of this Agreement and (ii) Section 4.8 (Taxes) or Section 5.9 (Permitted Investments) of the Common Terms Agreement, and such Default continues unremedied for a period of sixty days after the earlier of (x) the date on which the Borrower receives written notice of such Default from the TCF Administrative Agent or (y) the date on which the Borrower obtains Knowledge of such Default.
- (c) The Borrower defaults in the due performance and observance of any of its material obligations under Section 8.16.

- (d) The Pledgor defaults in the due performance and observance of any of its obligations under Sections 5.1(b)-(d) (*Covenants of the Pledgor*) of the P1 Pledge Agreement that is not corrected or cured within thirty days after the earlier of (x) the date on which the Pledgor became aware of such failure and (y) notice from the P1 Collateral Agent to the Borrower and the Pledgor.
- (e) The Pledgor fails to make requested contributions to the Borrower pursuant to the P1 Equity Contribution Agreement if such failure is not cured within ten Business Days; provided, that amounts received by the P1 Collateral Agent by drawing upon any Equity Credit Support (or in the case of any P1 Equity Guaranty, demand thereunder and payment by the applicable P1 Equity Guarantor within five Business Days after such demand) in accordance with Section 2.2(c) (*Equity Credit Support*) of the P1 Equity Contribution Agreement shall be taken into account in the determination of the cure of any such default.
- (f) Failure by the Borrower or the Pledgor, or any P1 Equity Guarantor to comply in any material respect with any covenant or agreement hereunder (other than as otherwise set forth in this Article 11), under the Common Terms Agreement (other than as otherwise set forth in Article 7 (*Events of Default*) of the Common Terms Agreement), or in any other TCF Financing Document (excluding (x) any covenants or agreements set forth in any Senior Secured Debt Instrument other than this Agreement and (y) any covenants or agreements in any Senior Secured Debt Instrument as they may apply to any event affecting any Offtake Agreement to the extent that such event triggers an "Event of Default" (howsoever defined) or a prepayment remedy thereunder); provided, that if such Default is capable of cure, no Event of Default shall have occurred pursuant to this Section 11.3(f) if such Default has been cured within sixty days after Borrower's Knowledge of such Default; provided, further, that if such breach is not capable of cure within such sixty day period, then such sixty day period shall be extended to a total period of ninety days so long as (i) such Default is subject to cure, (ii) the Borrower is diligently pursuing a cure, and (iii) such additional cure period could not reasonably be expected to result in a Material Adverse Effect; it being understood, for the avoidance of doubt, that any breach of Section 18.1(a) (*Meaning of Event of Default*) of the CFAA shall not be subject to extension pursuant to the foregoing provision.

11.4. Breach of Representation or Warranty

Except to the extent constituting an Event of Default under Section 11.11 (in which case Section 11.11 would apply), any representation or warranty made or deemed made by the Borrower or the Pledgor in this Agreement, the Common Terms Agreement, or any other TCF Financing Document shall prove to have been false as of the time made or deemed made, confirmed, or furnished, such falsity (if capable of being remedied) is not remedied within sixty days after the earlier of notice or Borrower's Knowledge of such misrepresentation or false statement, and such falsity or any adverse effects therefrom could reasonably be expected to have a Material Adverse Effect.

11.5. Bankruptcy

A Bankruptcy shall occur with respect to the Borrower and/or notwithstanding Section 7.5(b) ~~Bankruptcy~~ of the Common Terms Agreement, a Bankruptcy shall occur with respect to any RG Facility Entity.

11.6. Litigation

A final judgment or series of judgments in excess of \$150,000,000 in the aggregate (net of insurance proceeds which are reasonably expected to be paid) against the Borrower shall be rendered by one or more Government Authorities, arbitral tribunals or other bodies having jurisdiction over the Borrower, and the same remains unpaid or unstayed for a period of ninety or more days from the date of entry of such judgment or series of judgments.

11.7. Illegality or Unenforceability

This Agreement or any other TCF Financing Document (other than (x) any Senior Secured Debt Instrument that is not a Necessary Senior Secured Debt Instrument or (y) Consent Agreement in respect of any Material Project Document that is not a Credit Agreement Designated Offtake Agreement then in full force and effect or any Consent Agreement where the occurrence of this Event of Default has been triggered by an event affecting the underlying Material Project Document and a prepayment remedy or other "Event of Default" (howsoever defined) is available under the applicable TCF Financing Documents) or any material provision thereof, (a) is declared by a court of competent jurisdiction to be illegal or unenforceable and such unenforceability or illegality is not cured within five Business Days following the date of entry of such judgment (provided, that such five Business Day period will apply only so long as the relevant party is attempting in good faith to cure such unenforceability), (b) should otherwise cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration or termination in accordance with its terms in the ordinary course (and not related to any default hereunder or thereunder)), or (c) is expressly terminated, contested or repudiated by the Borrower, the Pledgor, or any P1 Equity Guarantor party thereto.

11.8. Abandonment

A Credit Agreement Event of Abandonment occurs or is deemed to have occurred.

11.9. Insurance

Any insurance required in the Insurance Program to be obtained and maintained by InsuranceCo is not obtained and maintained as and when required by the Insurance Program and such failure shall remain unremedied for sixty days after the earlier of (a) the Borrower's Knowledge of such failure and (b) the notice from P1 Collateral Agent or the P1 Intercreditor Agent to the Borrower, such cure period to be extended to a total of ninety days so long as the breach is subject to cure, the Borrower is diligently pursuing a cure and such additional cure period could not reasonably be expected to result in a Material Adverse Effect.

11.10. Material Government Approvals

Any Material Government Approval (whether or not such Material Government Approval is identified on Schedule 6.6(b), Schedule 6.6(c), or Schedule 6.6(e) but excluding the DOE Export Authorization and any Material Government Approvals required under Environmental Laws) related to the Borrower, the Development or the Project shall be Impaired and such Impairment could reasonably be expected to have a Material Adverse Effect; unless: (a) the Borrower provides a reasonable remediation plan (which sets forth in reasonable detail the proposed steps to be taken to cure such Impairment) no later than thirty Business Days following the date that the Borrower has Knowledge of the occurrence of such Impairment, (b) the Borrower diligently pursues the implementation of such remediation plan, and (c) such Impairment is cured no later than ninety days following the occurrence thereof.

11.11. Project Environmental Default

There shall have occurred a breach by the Borrower of the covenants described in Section 8.7(a) (in relation to any Environmental Laws) or Section 8.7(b) unless (a) the Borrower or the Operator, as applicable, provides a reasonable remedial plan (which remedial plan sets forth in reasonable detail the proposed steps to be taken to cure such breach), no later than thirty Business Days following the date that the Borrower has Knowledge of the occurrence of such breach, (b) the Borrower diligently pursues the implementation of such remedial plan, as applicable, and (c) such breach is cured no later than ninety days following the occurrence thereof (or such longer period, if any, presented by any administrative, legal, regulatory or statutory time period applicable thereto but only as may be reasonably necessary to cure such breach or required by a Government Authority).

11.12. Material Project Document Defaults

- (a) Any RG Facility Agreement, the Common Accounts Agreement or the P1 CASA shall at any time for any reason cease to be valid and binding or in full force and effect (other than (x) in respect of the DOE Authorization Administration Agreement, in accordance with Section 2.10 (*Effect of Change in Government Rules*) thereof or (y) in respect of the P1 CASA, in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default or early termination right under the P1 CASA)) or shall be materially Impaired; provided, that no Event of Default shall have occurred pursuant to this Section 11.12(a) if the RG Facility Agreement, the Common Accounts Agreement or the P1 CASA, as applicable, shall have been replaced with a replacement agreement on the same terms, subject to the same conditions, and with the same counterparties (other than the Administrator, the Operator, the Coordinator, the P1 CASA Advisor, or the Export Administrator, as applicable, to the extent replaced in accordance with the Definitions Agreement) as such agreement being replaced within sixty days.
- (b) (i) The Coordinator shall be in material breach or default of its obligations under the Lifting and Scheduling Agreement in a manner that has a material impact on the ability of the Borrower to perform its obligations under the Credit Agreement Designated Offtake Agreements, (ii) the Administrator, the Operator, the P1

CASA Advisor, or the Export Administrator shall be in material breach or default of their obligations under any RG Facility Agreement (other than the Lifting and Scheduling Agreement) or the P1 CASA in a manner that has a material and adverse effect on the Development or the Borrower, or (iii) the Coordinator, the Administrator, the Operator, the P1 CASA Advisor, or the Export Administrator shall contest the enforceability of any RG Facility Agreement, any Cash Account Control Agreement (as defined in the Common Accounts Agreement) or the P1 CASA or disaffirm any such agreement in writing; provided, that no Event of Default shall have occurred pursuant to this Section 11.12(b) if such breach or default is cured within sixty days of such breach or default or if the Coordinator, the Administrator, the Operator, the P1 CASA Advisor, or the Export Administrator (as applicable) has been replaced (or is being replaced during the term of any transition period in accordance with the relevant RG Facility Agreement) in accordance with the Definitions Agreement within sixty days of such breach or default.

- (c) Any Material Project Document (other than any Credit Agreement Designated Offtake Agreement and any other Material Project Document otherwise set forth in this Section 11.12) (i) is expressly repudiated in writing by the Material Project Party that is the counterparty thereto and such repudiation could reasonably be expected to have a Material Adverse Effect, (ii) is declared unenforceable in a final judgment of a court of competent jurisdiction against any party, such unenforceability is not cured, and such unenforceability could reasonably be expected to have a Material Adverse Effect, or (iii) shall have been terminated or shall for any reason cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default or early termination right thereunder)) and such termination, failure to be valid, binding, or in full force and effect, or material Impairment could reasonably be expected to have a Material Adverse Effect; provided, that no Event of Default shall have occurred pursuant to this Section 11.12(c) if (x) such event or circumstance is cured within sixty days of such event or circumstance or (y) the Borrower notifies the TCF Administrative Agent that it intends to replace such Material Project Document and diligently pursues such replacement and the applicable Material Project Document is replaced within sixty days with an Additional Material Project Document which has substantially similar or more favorable economic effect for Borrower, as applicable, when taken as a whole together with any other agreements related thereto and which has substantially similar or more favorable non-economic terms (taken as a whole together with any other agreements related thereto) for Borrower, as applicable, as the Material Project Document being replaced.

11.13. Event of Loss

An Event of Loss occurs with respect to all or substantially all of the Project and (a) the Borrower (i) elects not to Restore, (ii) fails to make an election to proceed with the Restoration of the Rio Grande Facility or defer such election in accordance with Section 22.3.1 (*Events of Loss Affecting Train Facilities*) of the CFAA, or (iii) elects to defer its election to proceed or not proceed with the Restoration of the Rio Grande Facility in accordance with Section 22.3.1 (*Events of Loss Affecting Train Facilities*) of

the CFAA but thereafter does not elect to proceed with such Restoration of the Rio Grande Facility within sixty days of receipt of a Restoration Plan issued in accordance with Section 22.1.2 (*Notice; Restoration Plan*) of the CFAA or (b) the conditions set forth in paragraph (b) of Schedule 8.16(c) have not been satisfied in accordance with the requirements set forth therein within the ninety-day period specified therein; provided, that if an Event of Loss occurs with respect to a material portion of the Project, the Borrower may elect not to Restore such a material portion of the Project, to the extent that, after giving *pro forma* effect to the Restoration of any remaining portion of the Project in accordance with the relevant Restoration Plan, the Borrower certifies (and the Independent Engineer reasonably concurs with such certification in writing) (i) the Borrower will be capable of complying in all material respects with the Credit Agreement Designated Offtake Agreements and (ii) the Borrower reasonably expects to have (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, committed equity (including the Cash Equity Financing) and projected Contracted Revenues under the Credit Agreement Designated Offtake Agreements) sufficient funds to Restore the Project following such Event of Loss, in each case of clauses (i) and (ii), confirmed by the Independent Engineer.

11.14. Change of Control

A Change of Control occurs.

11.15. ERISA Events

An ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect.

11.16. Liens

The Liens in favor of the Senior Secured Debt Holders under the Senior Security Documents shall, other than by reason of a release of Collateral in accordance with the terms of this Agreement and the Senior Security Documents, at any time cease to constitute valid and perfected Liens granting a first priority security interest in the Collateral (subject to Permitted Liens) and five Business Days have elapsed following the earlier of (a) the Borrower's has Knowledge of the occurrence of such event or circumstance and (b) the notice from P1 Collateral Agent or the P1 Intercreditor Agent to the Borrower thereof.

11.17. Term Conversion; Etc.

The failure to achieve the Term Conversion Date by the Date Certain.

12. REMEDIES

12.1. Acceleration Upon Bankruptcy

If any CTA Event of Default described in Section 7.5(a) (*Bankruptcy*) of the Common Terms Agreement occurs with respect to the Borrower, all outstanding Construction/

Term Loan Commitments, if any, shall automatically terminate, the outstanding principal amount of the Construction/Term Loans and all other Obligations shall automatically be and become immediately due and payable, in each case without notice, demand or further act of the TCF Administrative Agent or the Senior Lenders.

12.2. Acceleration Upon Other Event of Default

If any Event of Default occurs for any reason other than set forth in Section 12.1 and is continuing (unless cured during any applicable cure period), the TCF Administrative Agent may, or upon the direction of the Majority Senior Lenders shall, by written notice to the Borrower take any or all of the following actions:

- (a) declare the outstanding principal amount of the Construction/Term Loans and all other Obligations that are not already due and payable to be immediately due and payable; and
- (b) terminate all outstanding Construction/Term Loan Commitments.

The full unpaid amount of such Construction/Term Loans and other Obligations that have been declared due and payable shall be and become immediately due and payable, without further notice, demand or presentment, as the case may be, and such outstanding Construction/Term Loan Commitments shall terminate. Any declaration made pursuant to this Section 12.2 may, should the Majority Senior Lenders in their sole and absolute discretion so elect, be rescinded by written notice to the Borrower at any time after the principal of the Construction/Term Loans has become due and payable, but before any judgment or decree for the payment of the monies so due, or any part thereof, has been entered; provided, that no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

12.3. Action Upon Event of Default

Subject to the terms of the Collateral and Intercreditor Agreement, if any Event of Default occurs for any reason and is continuing (after giving effect to any cure of the applicable Event of Default), then, the TCF Administrative Agent may, or upon the direction of the Majority Senior Lenders shall, by written notice to the Borrower of its intention to exercise any remedies hereunder, under the other TCF Financing Documents or at law or in equity, and without further notice of default, presentment or demand for payment, protest or notice of non-payment or dishonor, or other notices or demands of any kind, all such notices and demands being waived by the Borrower, exercise any or all of the following rights and remedies, in any combination or order that the TCF Administrative Agent or the Majority Senior Lenders may elect, in addition to such other right or remedies as the TCF Administrative Agent and the Senior Lenders may have hereunder, under the other TCF Financing Documents or at law or in equity:

- (a) pursuant to the terms of the Common Terms Agreement and the Collateral and Intercreditor Agreement, vote in favor of the taking of any and all actions necessary or desirable to implement any available remedies with respect to the Collateral under any of the P1 Collateral Documents;

- (b) without any obligation to do so, make disbursements or Construction/Term Loans as provided in Section 2.1 to or on behalf of the Borrower to cure any Event of Default hereunder and to cure any default and render any performance under any Material Project Documents (or any other contract to which the Borrower is a party) as the Majority Senior Lenders in their sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Senior Lenders' interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate, shall be Senior Secured Obligations, notwithstanding that such expenditures may, together with amounts theretofore advanced under this Agreement, exceed the amount of the Construction/Term Loan Commitments; or
- (c) take (or vote in favor of the taking) other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the Common Terms Agreement or the Collateral and Intercreditor Agreement.

12.4. Application of Proceeds

Subject to the terms of the Collateral and Intercreditor Agreement, any moneys received by the TCF Administrative Agent from the P1 Collateral Agent after the occurrence and during the continuance of an Event of Default and the period during which remedies have been initiated shall be applied in full or in part by the TCF Administrative Agent against the Obligations in the following order of priority (but without prejudice to the right of the Senior Lenders, subject to the terms of the Collateral and Intercreditor Agreement, to recover any shortfall from the Borrower):

- (a) first, to payment of that portion of the Obligations constituting fees, costs, expenses (and interest owing thereon (if any)) and any other amounts (including fees, costs and expenses of counsel) payable to the TCF Administrative Agent in its capacity as such;
- (b) second, to payment of that portion of the Obligations constituting fees, costs, expenses (and interest owing thereon (if any)) and any other amounts (including fees, costs and expenses of counsel and amounts payable under Article 5) payable to the Senior Lenders ratably in proportion to the amounts described in this clause second payable to them, as certified by the TCF Administrative Agent;
- (c) third, to payment of that portion of the Obligations constituting accrued and unpaid interest (including default interest) with respect to the Construction/Term Loans, payable to the Senior Lenders ratably in proportion to the respective amounts described in this clause third payable to them, as certified by the TCF Administrative Agent;
- (d) fourth, to payment, on *apro rata* basis, of that principal amount of the Construction/Term Loans payable to the Senior Lenders (in inverse order of maturity), ratably among the Senior Lenders in proportion to the respective amounts described in this clause fourth held by them, as certified by the TCF Administrative Agent; and

- (e) fifth, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by applicable Government Rule.

13. THE TCF ADMINISTRATIVE AGENT

13.1. Appointment and Authority

- (a) Each of the Senior Lenders hereby appoints, designates and authorizes MUFG Bank, Ltd., as its TCF Administrative Agent under and for purposes of each TCF Financing Document to which the TCF Administrative Agent is a party, and in its capacity as the TCF Administrative Agent, to act on its behalf as Senior Secured Debt Holder Representative for the Senior Lenders. MUFG Bank, Ltd. hereby accepts this appointment and agrees to act as the TCF Administrative Agent for the Senior Lenders in accordance with the terms of this Agreement, and to act as Senior Secured Debt Holder Representative for the Senior Lenders in accordance with the Common Terms Agreement. Each of the Senior Lenders appoints and authorizes the TCF Administrative Agent to act on behalf of such Senior Lender under each TCF Financing Document to which it is a party and in the absence of other written instructions from the Majority Senior Lenders received from time to time by the TCF Administrative Agent (with respect to which the TCF Administrative Agent agrees that it will comply, except as otherwise provided in this Section 13.1 or as otherwise advised by counsel, and subject in all cases to the terms of the Collateral and Intercreditor Agreement), to exercise such powers hereunder and thereunder as are specifically delegated to or required of the TCF Administrative Agent by the terms hereof and thereof, together with such powers as may be reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in any TCF Financing Document, the TCF Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the TCF Administrative Agent have or be deemed to have any fiduciary relationship with any Senior Lender or other Credit Agreement Senior Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into any TCF Financing Document or otherwise exist against the TCF Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to the TCF Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Government Rule. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.
- (b) The provisions of this Section 13.1 are solely for the benefit of the TCF Administrative Agent and the Senior Lenders, and neither the Borrower nor any other Person shall have rights as a third party beneficiary of any of such provisions other than the Borrower's rights under Section 13.7(a) and Section 13.7(b).

13.2. Rights as a Senior Lender

Each Person serving as the TCF Administrative Agent hereunder or under any other TCF Financing Document shall have the same rights and powers in its capacity as a Senior

Lender, as the case may be, as any other Senior Lender and may exercise the same as though it were not the TCF Administrative Agent. Each such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or Affiliates of the Borrower as if such Person were not the TCF Administrative Agent hereunder and without any duty to account therefor to any Senior Lender.

13.3. Exculpatory Provisions

- (a) The TCF Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other TCF Financing Documents. Without limiting the generality of the foregoing, the TCF Administrative Agent shall not:
 - (i) be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;
 - (ii) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other TCF Financing Documents that the TCF Administrative Agent is required to exercise as directed in writing by the Majority Senior Lenders (or such other number or percentage of the Senior Lenders as shall be expressly provided for herein or in the other TCF Financing Documents); provided, that the TCF Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the TCF Administrative Agent to liability or that is contrary to any TCF Financing Document or applicable Government Rule; or
 - (iii) except as expressly set forth herein and in the other TCF Financing Documents, have any duty to disclose, nor shall the TCF Administrative Agent be liable for any failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the TCF Administrative Agent or any of its Affiliates in any capacity.
- (b) The TCF Administrative Agent shall not be liable for any action taken or not taken by it (i) with the prior written consent or at the request of the Majority Senior Lenders (or such other number or percentage of the Senior Lenders as may be necessary, or as the TCF Administrative Agent may believe in good faith to be necessary, under the circumstances as provided in Section 14.1) or (ii) in the absence of its own gross negligence or willful misconduct, as determined by a final and Non-Appealable judgment of a court of competent jurisdiction. The TCF Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to the TCF Administrative Agent in writing by the Borrower or a Senior Lender.
- (c) The TCF Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or

in connection with this Agreement or any other TCF Financing Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence or continuance of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other TCF Financing Document or any other agreement, instrument or document, or the perfection or priority of any Lien or security interest created or purported to be created by any Senior Security Document, or (v) the satisfaction of any condition set forth in [Article 7](#) or elsewhere herein, other than to confirm receipt of any items expressly required to be delivered to the TCF Administrative Agent.

- (d) The TCF Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the TCF Administrative Agent shall not (i) be obligated to ascertain, monitor or inquire as to whether any Senior Lender or Participant or prospective Senior Lender or Participant is a Disqualified Institution or (ii) have any liability with respect to or arising out of any assignment or participation of Construction/Term Loans, or disclosure of confidential information, to any Disqualified Institution.

13.4. Reliance by TCF Administrative Agent

The TCF Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The TCF Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Construction/Term Loan that by its terms must be fulfilled to the satisfaction of any Senior Lender, the TCF Administrative Agent may presume that such condition is satisfactory to such Senior Lender unless the TCF Administrative Agent has received notice to the contrary from such Senior Lender prior to the making of such Construction/Term Loan. The TCF Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

13.5. Delegation of Duties

The TCF Administrative Agent may perform any and all of its duties and exercise any and all its rights and powers hereunder or under any other TCF Financing Document by or through any one or more sub-agents appointed by the TCF Administrative Agent. The TCF Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this [Article 13](#) shall apply to any such sub-agent and to the

Related Parties of the TCF Administrative Agent, and shall apply to all of their respective activities in connection with their acting as or for the TCF Administrative Agent. The TCF Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and Non-Appealable judgment that the TCF Administrative Agent acted with gross negligence or willful misconduct in the selection or supervision of such sub-agents.

13.6. Request for Indemnification by the Senior Lenders

The TCF Administrative Agent shall be fully justified in taking, refusing to take or continuing to take any action hereunder unless it shall first be indemnified to its satisfaction by the Senior Lenders against any and all liability and expense which may be incurred by it by reason of taking, refusing to take or continuing to take any such action.

13.7. Resignation or Removal of TCF Administrative Agent

- (a) The TCF Administrative Agent may resign from the performance of all its functions and duties hereunder and under the other TCF Financing Documents at any time by giving thirty days' prior notice to the Borrower, the P1 Collateral Agent, and the Senior Lenders. The TCF Administrative Agent may be removed at any time by the Majority Senior Lenders if the TCF Administrative Agent becomes a Defaulting Lender. In the event MUFG Bank, Ltd. is no longer the TCF Administrative Agent, any successor TCF Administrative Agent may be removed at any time with cause by the Majority Senior Lenders. Any such resignation or removal shall take effect upon the appointment of a successor TCF Administrative Agent, in accordance with this Section 13.7.
- (b) Upon any notice of resignation by the TCF Administrative Agent or upon the removal of the TCF Administrative Agent by the Majority Senior Lenders or any Senior Lender in accordance with Section 13.7(a), the Majority Senior Lenders shall appoint a successor TCF Administrative Agent, hereunder and under each other TCF Financing Document to which the TCF Administrative Agent is a party, such successor TCF Administrative Agent to be a commercial bank (i) that has a combined capital and surplus of at least \$1,000,000,000 and (ii) that is a FATCA Exempt Party; provided, that if no Default or Event of Default shall then be continuing, appointment of a successor TCF Administrative Agent shall also be acceptable to the Borrower (such acceptance not to be unreasonably withheld, conditioned or delayed). The fees payable by the Borrower to a successor TCF Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor.
- (c) If no successor TCF Administrative Agent has been appointed by the Majority Senior Lenders within thirty days after the date such notice of resignation was given by such resigning TCF Administrative Agent, such TCF Administrative Agent's resignation shall nevertheless become effective and the Majority Senior Lenders shall thereafter perform all the duties of such TCF Administrative Agent hereunder and/or under any other TCF Financing Document until such time, if any, as the Majority Senior Lenders appoint a successor TCF Administrative Agent.

Agent. If no successor TCF Administrative Agent has been appointed by the Majority Senior Lenders within thirty days after the date the Majority Senior Lenders elected to remove such Person, any Credit Agreement Senior Secured Party may petition any court of competent jurisdiction for the appointment of a successor TCF Administrative Agent. Such court may thereupon, after such notice, if any, as it may deem proper, appoint a successor TCF Administrative Agent, who shall serve as TCF Administrative Agent hereunder and under each other TCF Financing Document to which it is a party until such time, if any, as the Majority Senior Lenders appoint a successor TCF Administrative Agent, as provided above.

- (d) Upon the acceptance of a successor's appointment as TCF Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) TCF Administrative Agent, and the retiring (or removed) TCF Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other TCF Financing Documents and the replaced TCF Administrative Agent shall make available to the successor TCF Administrative Agent such records, documents and information in the replaced TCF Administrative Agent's possession and provide such assistance as the successor TCF Administrative Agent may reasonably request in connection with its appointment as the successor TCF Administrative Agent. After the retirement or removal of the TCF Administrative Agent hereunder and under the other TCF Financing Documents, the provisions of this Article 13 and Section 14.8 shall continue in effect for the benefit of such retiring (or removed) Person, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Person was acting in its capacity as TCF Administrative Agent.

13.8. No Amendment to Duties of TCF Administrative Agent Without Consent

The TCF Administrative Agent shall not be bound by any waiver, amendment, supplement or modification of this Agreement or any other TCF Financing Document that affects its rights or duties hereunder or thereunder unless such TCF Administrative Agent shall have given its prior written consent, in its capacity as TCF Administrative Agent thereto.

13.9. Non-Reliance on TCF Administrative Agent and Senior Lenders

Each of the Senior Lenders acknowledges that it has, independently and without reliance upon the TCF Administrative Agent, any other Senior Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and make its extensions of credit. Each of the Senior Lenders also acknowledges that it will, independently and without reliance upon the TCF Administrative Agent any other Senior Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other TCF Financing Document or any related agreement or any document furnished hereunder or thereunder.

13.10. Coordinating Lead Arranger, Bookrunner, Syndication Agent Duties

Anything herein to the contrary notwithstanding, none of the Coordinating Lead Arranger, the Bookrunner or the Syndication Agent shall have any powers, duties or responsibilities under this Agreement, except in its capacity, as applicable, as the TCF Administrative Agent, P1 Collateral Agent, or Senior Lender hereunder.

13.11. Copies

The TCF Administrative Agent shall give prompt notice to Total Holdings and each Senior Lender of receipt of each notice or request required or permitted to be given to the TCF Administrative Agent by the Borrower pursuant to the terms of this Agreement or any other TCF Financing Document (unless concurrently delivered to Total Holdings and/or the Senior Lenders, as applicable, by the Borrower). The TCF Administrative Agent will distribute to Total Holdings and each Senior Lender each document and other communication received by the TCF Administrative Agent from the Borrower for distribution to Total Holdings and the Senior Lenders by the TCF Administrative Agent in accordance with the terms of this Agreement or any other TCF Financing Document.

13.12. Erroneous Payments.

- (a) If the TCF Administrative Agent (i) notifies a Senior Lender, or any Person who has received funds on behalf of a Senior Lender (any such Senior Lender or other recipient (and each of their respective successors and assigns), a **"Payment Recipient"**) that the TCF Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice from the TCF Administrative Agent) received by such Payment Recipient from the TCF Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Senior Lender or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an **"Erroneous Payment"**) and (ii) demands in writing the return of such Erroneous Payment (or a portion thereof) (provided, that, without limiting any other rights or remedies (whether at law or in equity), the TCF Administrative Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within five Business Days of the date of receipt of such Erroneous Payment by the applicable Payment Recipient), such Erroneous Payment shall at all times remain the property of the TCF Administrative Agent pending its return or repayment as contemplated below in this Section 13.12 and held in trust for the benefit of the TCF Administrative Agent, and such Senior Lender shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the TCF Administrative Agent may, in its sole discretion, specify in writing), return to the TCF Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the TCF

Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the TCF Administrative Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the TCF Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the TCF Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

- (b) Without limiting immediately preceding clause (a), each Senior Lender or any Person who has received funds on behalf of a Senior Lender (and each of their respective successors and assigns), agrees that if it receives a payment, prepayment, or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution, or otherwise) from the TCF Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the TCF Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the TCF Administrative Agent (or any of its Affiliates), or (z) that such Senior Lender or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:
- (i) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the TCF Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and
 - (ii) such Senior Lender shall use commercially reasonable efforts to (and shall use commercially reasonable efforts to cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y), and (z)) notify the TCF Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the TCF Administrative Agent pursuant to this Section 13.12(b).

For the avoidance of doubt, the failure to deliver a notice to the TCF Administrative Agent pursuant to this Section 13.12(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 13.12(a) or on whether or not an Erroneous Payment has been made.

- (c) Each Senior Lender hereby authorizes the TCF Administrative Agent to set off, net and apply any and all amounts at any time owing to such Senior Lender under any TCF Financing Document, or otherwise payable or distributable by the TCF Administrative Agent to such Senior Lender under any TCF Financing Document

with respect to any payment of principal, interest, fees or other amounts, against any amount that the TCF Administrative Agent has demanded to be returned under immediately preceding clause (a).

- (d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the TCF Administrative Agent for any reason, after demand therefor in accordance with immediately preceding clause (a), from any Senior Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “**Erroneous Payment Return Deficiency**”), upon the TCF Administrative Agent’s notice to such Senior Lender at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (i) such Senior Lender shall be deemed to have assigned its Construction/Term Loans (but not its Construction/Term Loan Commitments) with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Class**”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the TCF Administrative Agent may specify) (such assignment of the Construction/Term Loans (but not Construction/Term Loan Commitments) of the Erroneous Payment Impacted Class, the “**Erroneous Payment Deficiency Assignment**”) (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by the TCF Administrative Agent in such instance)), and is hereby (together with the Borrower) deemed to execute and deliver a Lender Assignment Agreement with respect to such Erroneous Payment Deficiency Assignment, and such Senior Lender shall deliver any Construction/Term Loan Notes evidencing such Construction/Term Loans to the Borrower or the TCF Administrative Agent (but the failure of such Person to deliver any such Construction/Term Loan Notes shall not affect the effectiveness of the foregoing assignment), (ii) the TCF Administrative Agent as the assignee Senior Lender shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the TCF Administrative Agent as the assignee Senior Lender shall become a Senior Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Senior Lender shall cease to be a Senior Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Construction/Term Loan Commitments which shall survive as to such assigning Senior Lender, (iv) the TCF Administrative Agent and the Borrower shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (v) the TCF Administrative Agent will reflect in the Register its ownership interest in the Construction/Term Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Construction/Term Loan Commitments of any Senior Lender and such Construction/Term Loan Commitments shall remain available in accordance with the terms of this Agreement.
- (e) Subject to Section 14.4, the TCF Administrative Agent may, in its discretion, sell any Construction/Term Loans acquired pursuant to an Erroneous Payment

Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Senior Lender shall be reduced by the net proceeds of the sale of such Construction/Term Loan (or portion thereof), and the TCF Administrative Agent shall retain all other rights, remedies, and claims against such Senior Lender (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Senior Lender (i) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the TCF Administrative Agent on or with respect to any such Construction/Term Loans acquired from such Senior Lender pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Construction/Term Loans are then owned by the TCF Administrative Agent) and (ii) may, in the sole discretion of the TCF Administrative Agent, be reduced by any amount specified by the TCF Administrative Agent in writing to the applicable Senior Lender from time to time.

- (f) The parties hereto agree that (i) irrespective of whether the TCF Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the TCF Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Senior Lender to the rights and interests of such Senior Lender as the case may be) under the TCF Financing Documents with respect to such amount (the “**Erroneous Payment Subrogation Rights**”) and (ii) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower; provided, that this Section 13.12 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the TCF Administrative Agent; provided, further, that for the avoidance of doubt, immediately preceding clauses (i) and (ii) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the TCF Administrative Agent from, or on behalf of (including through the exercise of remedies under any TCF Financing Document), the Borrower for the purpose of a payment on the Obligations.
- (g) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the TCF Administrative Agent for the return of any Erroneous Payment received, including, without limitation, any defense based on “discharge for value” or any similar doctrine.
- (h) Notwithstanding anything to the contrary herein or in any other TCF Financing Document, neither any Loan Party nor any of its respective Affiliates shall have any obligations or liabilities (including the payment of any assignment or

processing fee payable to the TCF Administrative Agent in connection therewith) directly or indirectly arising out of this Section 13.12 in respect of any Erroneous Payment (other than having consented to the assignment referenced in clause (d) above).

- (i) Each party's obligations, agreements and waivers under this Section 13.12 shall survive the resignation or replacement of the TCF Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Senior Lender, the termination of the applicable Construction/Term Loan Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any TCF Financing Document.

14. MISCELLANEOUS PROVISIONS

14.1. Amendments, Etc.

- (a) Subject to Section 14.30 and the terms of the Collateral and Intercreditor Agreement and other than Section 4.4(e), Section 5.7, and **Section 14.1(e)**, no Bank Financing Document or any provision thereof may be amended, modified, or waived unless in writing signed by the Borrower and the Majority Senior Lenders or the TCF Administrative Agent as directed by the Majority Senior Lenders, and each such amendment, modification, or waiver shall be effective only in the specific instance and for the specific purpose for which given; provided, that:
 - (i) the consent of each Senior Lender directly and adversely affected thereby will be required with respect to any amendment, modification or waiver in order to:
 - (A) extend or increase any Construction/Term Loan Commitment (other than pursuant to Section 2.11);
 - (B) extend the maturity date or postpone any date scheduled for any payment of principal, fees or interest (as applicable) under Section 4.1, Section 4.3, Section 4.10, or Section 4.13 or any date fixed by the TCF Administrative Agent for the payment of fees or other amounts due to the Senior Lenders (or any of them) hereunder (other than pursuant to Section 2.11);
 - (C) reduce the principal of, or the interest or rate of interest specified herein on, any Construction/Term Loan or any Fees or other amounts (including any mandatory prepayments under Section 4.10) payable to any Senior Lender hereunder;
 - (D) change the pro-rata treatment, sharing of payments, order of application of any reduction in any Construction/Term Loan Commitments or Tranches from the application thereof set forth in the applicable provisions of Section 2.1(g), Section 2.4, Section 4.9, Section 4.10, Section 4.14, Section 4.15, or Section 12.4, respectively, in any manner;

- (E) contractually subordinate the Liens in favor of the P1 Collateral Agent over the Collateral under and pursuant to the Senior Security Documents to Liens over the Collateral securing any other Indebtedness (any such other Indebtedness, the “**Senior Indebtedness**”) (it being understood that this clause (E) shall not (i) override the permission for (x) Permitted Liens or (y) Indebtedness expressly permitted by Section 9.4 as in effect on the Closing Date or (ii) apply to the incurrence of financing provided to the Borrower pursuant to Section 364 of the Bankruptcy Code or any similar proceeding under any other applicable debtor relief laws).
- (ii) the consent of each Senior Lender will be required with respect to any amendment, modification or waiver in order to:
 - (A) waive any condition set forth in Section 7.1, or Section 7.2;
 - (B) change any provision of this Section 14.1, the definition of Majority Senior Lenders, Supermajority Senior Lenders, Unanimous Decision, or any other provision hereof specifying the number or percentage of Senior Lenders required to amend, waive, terminate or otherwise modify any rights hereunder or make any determination or grant any consent hereunder;
 - (C) subject to all other provisions of this Section 14.1, release or allow release of (i) all or substantially all of the guarantee obligations or the value of any guarantee of the applicable RG Facility Entities as Common Guarantors under and as defined in the Common Accounts Agreement other than in accordance with the terms of the Common Accounts Agreement or (ii) all or any material portion of the Collateral from the Lien of any of the Senior Security Documents (other than (1) upon the sale, conveyance, lease, transfer, or other disposal of assets that do not constitute all or substantially all of the assets of the Borrower or (2) the termination, assignment, or other disposition of Material Project Documents in accordance with the TCF Financing Documents); or
 - (D) amend, modify, waive, or supplement the terms of Section 14.4.
- (iii) each Senior Lender shall provide written notice of any vote or action with respect to any consent, amendment, waiver or termination taken pursuant to this Agreement, or any other TCF Financing Document, to the TCF Administrative Agent, with a copy to the P1 Intercreditor Agent and Total Holdings.
- (iv) no amendment, modification, or waiver shall affect the rights or duties of, or any fees or other amounts payable to, the TCF Administrative Agent or the P1 Collateral Agent, unless consented to and signed by such party.

- (b) The Borrower agrees that if any of the terms (other than the economic terms ~~or any terms that would apply after the Maturity Date hereunder~~) set forth in any Senior Secured Debt Instrument related to Replacement Debt, Funding Shortfall Debt, and Reinstatement Debt incurred prior to the Term Conversion Date are either more favorable to the Senior Secured Debt Holders of such Replacement Debt, Funding Shortfall Debt, or Reinstatement Debt, as applicable, than the terms (other than the economic terms ~~or any terms that would apply after the Maturity Date hereunder~~) in favor of the Senior Lenders under this Agreement or are additional to the terms (other than the economic terms ~~or any terms that would apply after the Maturity Date hereunder~~) in favor of the Senior Lenders under this Agreement and more favorable to the Senior Secured Debt Holders under such Replacement Debt, Funding Shortfall Debt, or Reinstatement Debt, as applicable, then the comparable provisions of this Agreement shall be amended (with the consent of the TCF Administrative Agent) to provide the Senior Lenders with such more favorable terms or to add such provisions, as the case may be.
- (c) The TCF Administrative Agent shall approve any Economic Terms Modification of any other Senior Secured Debt Instrument if requested pursuant to Section 6.1 (*Modifications, Consents and Waivers of and under Senior Secured Debt Instruments*) of the Collateral and Intercreditor Agreement.
- (d) The TCF Administrative Agent shall not Consent to any Modifications, Consents or Waivers (including, without limitation, any Intercreditor Vote) of and under any P1 Collateral Document (other than Administrative Decisions (as defined in the Collateral and Intercreditor Agreement)) unless (i) if such Modification, Consent, or Waiver is a Unanimous Decision, it is directed to do so by (x) Total Holdings and (y) each Senior Lender, other than any Senior Lender that is a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof (except, in each of the foregoing cases under this sub-clause (y), Total Holdings) or (ii) otherwise, it is directed to do so by Total Holdings and the Majority Senior Lenders. This Section 14.1(d) shall be subject to the provisions of Section 14.30.
- (e) **Notwithstanding anything herein, each of the Senior Lenders and Total Holdings authorize and instruct the TCF Administrative Agent to enter into amendments to this Agreement of a routine technical or administrative nature or to correct any defects, ambiguities, manifest errors, or inconsistencies herein.**

14.2. Entire Agreement

- (a) This Agreement, the other TCF Financing Documents and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof (other than any terms of the Commitment Letter that survive the Closing Date).
- (b) In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument (including the Common Terms Agreement), the terms, conditions and provisions of this Agreement shall prevail.

14.3. Governing Law; Jurisdiction; Etc.

- (a) GOVERNING LAW. THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.
- (b) SUBMISSION TO JURISDICTION. TO THE EXTENT PERMITTED BY GOVERNMENT RULES, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER TCF FINANCING DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER TCF FINANCING DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER TCF FINANCING DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION IF GOVERNMENT RULES DOES NOT PERMIT A CLAIM, ACTION OR PROCEEDING REFERRED TO IN THE FIRST SENTENCE OF THIS SECTION 14.3(b) TO BE FILED, HEARD OR DETERMINED IN OR BY THE COURTS SPECIFIED THEREIN.
- (c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER TCF FINANCING DOCUMENT IN ANY COURT REFERRED TO IN SECTION 14.3(b). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY GOVERNMENT RULES, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.
- (d) Service of Process. Each Party hereto irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such

process to such Person at its then effective notice addresses pursuant to Section 14.11.

- (e) Immunity. To the extent that the Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, the Borrower hereby irrevocably and unconditionally waives such immunity in respect of its obligations under the TCF Financing Documents and, without limiting the generality of the foregoing, agrees that the waiver set forth in this Section 14.3(e) shall have the fullest scope permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and is intended to be irrevocable for purposes of such act.
- (f) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER TCF FINANCING DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER TCF FINANCING DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.3.

14.4. Assignments

- (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each of the Senior Lenders and the TCF Administrative Agent (and any attempted assignment or other transfer by the Borrower without such consent shall be null and void), and no Senior Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with Section 14.4(b), (ii) by way of participation in accordance with Section 14.4(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 14.4(e) (and any other attempted assignment or transfer by any Party hereto shall be null and void).
- (b)
 - (i) Subject to Section 14.4(h) and this Section 14.4(b), any Senior Lender may at any time after the date hereof assign to one or more Eligible

Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Construction/Term Loan Commitment, its participations in the Construction/Term Loans at the time owing to it).

- (ii) Except in the case of (A) an assignment of the entire remaining amount of the assigning Senior Lender's Construction/Term Loan Commitment and Construction/Term Loan at the time owing to it or (B) an assignment to a Senior Lender, or an Affiliate of a Senior Lender, or an Approved Fund with respect to a Senior Lender, the sum of (1) the outstanding applicable Construction/Term Loan Commitments, if any and (2) the outstanding applicable Construction/Term Loans subject to each such assignment (determined as of the date the Lender Assignment Agreement with respect to such assignment is delivered to the TCF Administrative Agent or, if a Trade Date is specified in the Lender Assignment Agreement, as of the Trade Date) shall not be less than \$5,000,000 and, with respect to the assignment of the Construction/Term Loans, in integral multiples of \$1,000,000, unless the TCF Administrative Agent otherwise consents in writing; provided, that the parties to each assignment shall execute and deliver to the TCF Administrative Agent a Lender Assignment Agreement, together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the TCF Administrative Agent's sole discretion).
- (iii) If the Eligible Assignee is not a Senior Lender prior to such assignment, it shall deliver to the TCF Administrative Agent an administrative questionnaire and all documentation and other information required by bank regulatory authorities under applicable KYC Requirements **"know your customer" requirements**.
- (iv) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the TCF Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the TCF Administrative Agent, the applicable *pro rata* share of Construction/Term Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the TCF Administrative Agent, and each other Senior Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) all Construction/Term Loan Commitments and Construction/Term Loans of such Defaulting Lender. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this Section 14.4(b)(iv).

then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

- (v) Subject to acceptance and recording thereof by the TCF Administrative Agent pursuant to Section 2.10(d), from and after the effective date specified in each Lender Assignment Agreement, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Lender Assignment Agreement, have the rights and obligations of a Senior Lender under this Agreement, and the assigning Senior Lender thereunder shall, to the extent of the interest assigned by such Lender Assignment Agreement, be released from its obligations under this Agreement (and, in the case of a Lender Assignment Agreement covering all of the assigning Senior Lender's rights and obligations under this Agreement, such Senior Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Section 5.1, Section 5.3, Section 5.5, Section 5.6, Section 8.7 (*Costs and Expenses*) of the Common Terms Agreement, Section 8.6 (*Expenses*) of the P1 Security Agreement, and Section 4.7 (*Fees; Expenses*) of the P1 Accounts Agreement with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Senior Lender's having been a Defaulting Lender.
 - (vi) Upon request, the Borrower (at its expense) shall execute and deliver the applicable Construction/Term Loan Notes to the assignee Senior Lender and/or revised Construction/Term Loan Notes to the assigning Senior Lender reflecting such assignment.
 - (vii) Any assignment or transfer by a Senior Lender of rights or obligations under this Agreement that does not comply with this Section 14.4(b) shall be treated for purposes of this Agreement as a sale by such Senior Lender of a participation in such rights and obligations in accordance with Section 14.4(d).
- (c) The TCF Administrative Agent shall maintain the Register in accordance with Section 2.10(d) above.
- (d) Any Senior Lender may at any time, without the consent of, or notice to, the Borrower or the TCF Administrative Agent, sell participations to any Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) (each, a "**Participant**") in all or a portion of such Senior Lender's rights or obligations under this Agreement (including all or a portion of its Construction/Term Loan Commitment or the Construction/Term Loans owing to it); provided, that (i) such Senior Lender's obligations under this Agreement shall remain unchanged, (ii) such Senior Lender remains solely responsible to the other parties hereto for the performance of such obligations and such participation shall not give rise to any legal privity between the Borrower and the Participant, and (iii) the Borrower,

the TCF Administrative Agent, the P1 Collateral Agent, and the other Senior Lenders shall continue to deal solely and directly with such Senior Lender in connection with such Senior Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Senior Lender shall be responsible for the indemnity under Section 14.8 with respect to any payments made by such Senior Lender to its Participant(s). Any agreement or instrument pursuant to which a Senior Lender sells such a participation shall provide that such Senior Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided, that such agreement or instrument may provide that such Senior Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 14.1 that directly affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Section 5.3 and Section 5.6 (subject to the requirements and limitations therein, including the requirements under Section 5.6(g) (it being understood that any documentation required under Section 5.6 shall be delivered to the participating Senior Lender)) to the same extent as if it were a Senior Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 14.4; provided, that such Participant (A) agrees to be subject to the provisions of Section 5.4 as if it were an assignee under clause (b) of this Section 14.4; and (B) shall not be entitled to receive any greater payment under Section 5.3, Section 5.5, or Section 5.6, with respect to any participation, than its participating Senior Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Senior Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 5.4 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 14.14 as though it were a Senior Lender; provided, that such Participant agrees to be subject to Section 4.15 as though it were a Senior Lender. Each Senior Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the applicable Construction/Term Loans or other obligations under the TCF Financing Documents (the "**Participant Register**"); provided, that no Senior Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any TCF Financing Document) to any other Person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Proposed Treasury Regulations Section 1.163-5(b) and within the meaning of Sections 163(f), 871(h)(2), and 881(c)(2) of the Code and any related United States Treasury Regulations (or any other relevant or successor provisions of the Code or of such United States Treasury Regulations). The entries in the Participant Register shall be conclusive absent manifest error, and such Senior Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the TCF

Administrative Agent (in its capacity as TCF Administrative Agent) shall have no responsibility for maintaining a Participant Register.

- (e) Any Senior Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Construction/Term Loan Notes, if any) to secure obligations of such Senior Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction; provided, that no such pledge or assignment shall release such Senior Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Senior Lender as a Party hereto.
- (f) Any Senior Lender may at any time, assign all or a portion of its rights and obligations with respect to Construction/Term Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender through (i) Dutch auctions open to all Senior Lenders on a *pro rata* basis in accordance with the procedures set forth on Exhibit Q hereto or (ii) open market purchases on *apro rata* or non-*pro rata* basis, in each case subject to the following limitations:
 - (i) the assigning Senior Lender and the Affiliated Lender purchasing such Senior Lender's Construction/Term Loans shall execute and deliver to the TCF Administrative Agent an assignment agreement substantially in the form of Exhibit F-2 hereto (an "**Affiliated Lender Assignment Agreement**");
 - (ii) Affiliated Lenders (other than Total Holdings) will not receive information provided solely to Senior Lenders by the TCF Administrative Agent or any Senior Lender and will not be permitted to attend or participate in conference calls or meetings attended solely by the Senior Lenders and the TCF Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Construction/Term Loans or Construction/Term Loan Commitments required to be delivered to Senior Lenders pursuant to Article 2;
 - (iii) the aggregate principal amount of Construction/Term Loans held at any one time by Affiliated Lenders (other than Total Holdings) shall not exceed 25% of the principal amount of all Construction/Term Loans at such time outstanding (measured at the time of purchase and excluding any Construction/Term Loans held by Total Holdings) (such percentage, the "**Affiliated Lender Cap**"); provided, that, to the extent any assignment to an Affiliated Lender would result in the aggregate principal amount of all Construction/Term Loans held by Affiliated Lenders exceeding the Affiliated Lender Cap, the assignment of such excess amount will be void *ab initio*; and
 - (iv) as a condition to each assignment pursuant to this Section 14.4(f), the TCF Administrative Agent shall have been provided a notice in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender pursuant to which such Affiliated Lender shall waive any right to bring

any action in connection with such Construction/Term Loans against the TCF Administrative Agent, in its capacity as such.

- (g) The words “*execution*,” “*signed*,” “*signature*,” and words of like import in any Lender Assignment Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.
- (h) All assignments by a Senior Lender of all or a portion of its rights and obligations hereunder with respect to any Tranche with then outstanding Construction/Term Loan Commitments shall be made only as an assignment of the same percentage of outstanding Construction/Term Loan Commitments and Construction/Term Loans and a proportionate part of all the assigning Senior Lender’s rights and obligations under this Agreement with respect to the Construction/Term Loans and Construction/Term Loan Commitments of any Tranche. If a Tranche has no unused Construction/Term Loan Commitments, assignments of outstanding Construction/Term Loans of such Tranche may be made, together with a *pro rata* portion of such Senior Lender’s rights and obligations with respect to the Tranche subject to such assignment, in such amounts, to such persons and on such terms as are permitted by and otherwise in accordance with Section 14.4(b). This Section 14.4(h) shall not prohibit any Senior Lender from assigning all or a portion of its rights and obligations hereunder among separate Tranches on a non-*pro rata* basis among such Tranches.
- (i) No sale, assignment, transfer, negotiation or other disposition of the interests of any Senior Lender hereunder or under the other TCF Financing Documents shall be allowed if it could reasonably be expected to require securities registration under any laws or regulations of any applicable jurisdiction.
- (j) Disqualified Institutions.
 - (i) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the “**Trade Date**”) on which the assigning Senior Lender entered into a binding agreement to sell and assign all or a portion of its rights and obligations under this Agreement (including through a participation) to such Person (unless the Borrower has consented to such assignment or participation in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee that becomes a Disqualified Institution after the applicable Trade Date or any Person that the Borrower removes from the DQ List (including as a result of the delivery of a notice pursuant to, or the expiration of the notice period referred to in, the definition of “Disqualified Institution”), (A) any additional designation or removal permitted by the foregoing shall not

apply retroactively to any prior or pending assignment or participation, as applicable, to any Senior Lender or Participant and (B) any designation or removal after the Closing Date of a Person as a Disqualified Institution shall become effective three Business Days after such designation or removal. Any assignment or participation in violation of this Section 14.4(j)(i) shall not be void, but the other provisions of this Section 14.4(j) shall apply. The Borrower shall deliver notices of any designation or removal of a Disqualified Institution to the TCF Administrative Agent via email to Lodagencyservices@us.mufg.jp and AgencyDesk@us.sc.mufg.jp.

- (ii) If any assignment or participation is made to any Disqualified Institution without the Borrower's prior written consent in violation of Section 14.4(j)(i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the TCF Administrative Agent, in the case of outstanding Construction/Term Loans held by Disqualified Institutions, purchase or prepay such Construction/Term Loans by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Construction/Term Loans or such participation in such Construction/Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder, or (C) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 14.4), all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.
- (iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to Senior Lenders by the Borrower, the TCF Administrative Agent or any other Senior Lender, (y) attend or participate in meetings attended by the Senior Lenders and the TCF Administrative Agent, or (z) access any electronic site established for the Senior Lenders or confidential communications from counsel to or financial advisors of the TCF Administrative Agent or the Senior Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the TCF Administrative Agent or any Senior Lender to undertake any action (or refrain from taking any action) under this Agreement or any other TCF Financing Documents, each Disqualified Institution will be deemed to have consented in the same proportion as the Senior Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any Debtor Relief Plan, each Disqualified Institution party hereto hereby agrees (1) not to vote on such Debtor Relief Plan, (2) if such Disqualified Institution does vote on such Debtor Relief

Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Debtor Relief Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and (3) not to contest any request by any party for a determination by the Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

- (iv) The TCF Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the TCF Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Borrower and any updates thereto from time to time (collectively, the "**DQ List**") on the Platform, including that portion of the Platform that is designated for "public side" Senior Lenders or (B) provide the DQ List to each Senior Lender requesting the same.

14.5. Benefits of Agreement

Nothing in this Agreement or any other TCF Financing Document, express or implied, shall be construed to give to any Person, other than the parties hereto, the Coordinating Lead Arranger, the Bookrunner, the Syndication Agent, the P1 Intercreditor Agent, the P1 Collateral Agent, each of their successors and permitted assigns under this Agreement or any other TCF Financing Document, Participants to the extent provided in Section 14.4 and, to the extent expressly contemplated hereby, the Related Parties of each of the TCF Administrative Agent, the P1 Collateral Agent, the P1 Intercreditor Agent, and the Senior Lenders, any benefit or any legal or equitable right or remedy under this Agreement.

14.6. Costs and Expenses

The Borrower shall pay (a) all reasonable and documented out-of-pocket expenses incurred by each of the TCF Administrative Agent, the P1 Collateral Agent, and the Senior Lenders and their Affiliates (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the preparation, negotiation, syndication, execution and delivery of this Agreement and the other TCF Financing Documents; (b) all reasonable and documented out of pocket expenses incurred by the TCF Administrative Agent, the P1 Collateral Agent, and the Senior Lenders (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower

shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with any amendments, modifications or waivers of the provisions of this Agreement and the other TCF Financing Documents (whether or not the transactions contemplated hereby or thereby are consummated); (c) all reasonable and documented out-of-pocket expenses incurred by the TCF Administrative Agent and the P1 Collateral Agent (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the administration of this Agreement and the other TCF Financing Documents (whether or not the transactions contemplated hereby or thereby are consummated); (d) all reasonable and documented out-of-pocket expenses incurred by each of the Coordinating Lead Arranger, the Bookrunner and the Syndication Agent in connection with the initial syndication of the credit facility under this Agreement (including reasonable printing and travel expenses); and (e) all documented out-of-pocket expenses incurred by the Credit Agreement Senior Secured Parties (including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the enforcement or protection (other than in connection with assignment of Construction/Term Loans or Construction/Term Loan Commitments) of their rights in connection with this Agreement and the other TCF Financing Documents, including their rights under this Section 14.6, including in connection with any workout, restructuring or negotiations in respect of the Obligations. Notwithstanding the foregoing, in the event that either the P1 Collateral Agent or the TCF Administrative Agent reasonably believes that a conflict exists in using one counsel, each of the P1 Collateral Agent or the TCF Administrative Agent, as applicable, may engage its own counsel. Furthermore, notwithstanding anything to the contrary in Section 8.6 (*Consultants*) of the Common Terms Agreement, during the continuation of any Event of Default, the Borrower shall pay (against direct invoices) the reasonable and documented fees and expenses of any other consultants and advisors of the Credit Agreement Senior Secured Parties (in addition to the Consultants as provided in such Section 8.6 (*Consultants*) of the Common Terms Agreement); provided, that (without limiting the obligation of the Borrower to pay such reasonable and documented fees and expenses) such fees and expenses shall be subject to separate fee agreements entered into by the Borrower acting reasonably.

14.7. Counterparts; Effectiveness

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the TCF Administrative Agent and when the TCF Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or portable document format ("pdf") shall

be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

14.8. Indemnification

- (a) The Borrower hereby agrees to indemnify each Credit Agreement Senior Secured Party, the Coordinating Lead Arranger, the Bookrunner and the Syndication Agent, and each Related Party of any of the foregoing Persons (each such Person being called a "**Credit Agreement Indemnitee**") against, and hold each Credit Agreement Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including all reasonable fees, costs and expenses of counsel or consultants for any Credit Agreement Indemnitee), incurred by any Credit Agreement Indemnitee or asserted against any Credit Agreement Indemnitee by any Person arising out of, in connection with, or as a result of:
- (i) the execution or delivery of this Agreement, any other Credit Agreement Transaction Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or the administration (other than expenses that do not constitute out-of-pocket expenses) or enforcement thereof;
 - (ii) any Construction/Term Loan or the use or proposed use of the proceeds therefrom;
 - (iii) any actual or alleged presence, Release or threatened Release of Hazardous Materials on, from or related to the Project that could reasonably result in an Environmental Claim related in any way to the Project, the Rio Grande Facility, the Land or any property owned or operated by the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity, or any Environmental Affiliate or any liability pursuant to an Environmental Law related in any way to the Project, the Rio Grande Facility, the Land, the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity;
 - (iv) any actual or prospective claim (including Environmental Claims), litigation, investigation or proceeding relating to any of the foregoing, whether based on common law, contract, tort or any other theory, whether brought by the Borrower or any of the Borrower's members, managers or creditors or by any other Person, and regardless of whether any Credit Agreement Indemnitee is a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other TCF

Financing Documents is consummated, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Credit Agreement Indemnatee; or

- (v) any claim, demand or liability for broker's or finder's or placement fees or similar commissions, whether or not payable by the Borrower, alleged to have been incurred in connection with such transactions, other than any broker's or finder's fees payable to Persons engaged by any Credit Agreement Senior Secured Party, the Coordinating Lead Arranger, the Bookrunner, the Syndication Agent, or any Affiliates or Related Parties of any of the foregoing;

provided, that such indemnity shall not, as to any Credit Agreement Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a final and Non-Appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Credit Agreement Indemnatee or breach by such Credit Agreement Indemnatee of any provisions of any TCF Financing Document to which it is a party.

- (b) To the extent that the Borrower for any reason fails to pay any amount required under Section 14.6 or Section 14.8(a) above to be paid by it to any of the TCF Administrative Agent or any Related Party of any of the foregoing, each Senior Lender severally agrees to pay to the TCF Administrative Agent, or such Related Party, as the case may be, such Senior Lender's ratable share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, based on the aggregate of such Senior Lender's Construction/Term Loan Commitments to the aggregate of all Construction/Term Loan Commitments; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the TCF Administrative Agent, in each case in its capacity as such, or against any Related Party of any of the foregoing acting for the TCF Administrative Agent, in each case in its capacity as such. The obligations of the Senior Lenders under this Section 14.8(b) are subject to the provisions of Section 2.10. The obligations of the Senior Lenders to make payments pursuant to this Section 14.8(b) are several and not joint and shall survive the payment in full of the Obligations and the termination of this Agreement. The failure of any Senior Lender to make payments on any date required hereunder shall not relieve any other Senior Lender of its corresponding obligation to do so on such date, and no Senior Lender shall be responsible for the failure of any other Senior Lender to do so.
- (c) Without duplication of Section 8.10(b) (*Indemnification by Borrower*) of the Common Terms Agreement or any other indemnification provision in any TCF Financing Document providing for indemnification by any Senior Secured Party in favor of the P1 Collateral Agent, the P1 Intercreditor Agent or any Related Party of any of the foregoing, to the extent that the Borrower for any reason fails to pay any amount required under Section 8.7 (*Costs and Expenses*) or Section 8.10(a) (*Indemnification by Borrower*) of the Common Terms Agreement or any analogous costs and expenses or indemnity provisions of any TCF

Financing Document to be paid by it to any of the P1 Intercreditor Agent, the P1 Collateral Agent or any Related Party of any of the foregoing, each Senior Lender severally agrees to pay to the P1 Intercreditor Agent, the P1 Collateral Agent or such Related Party, as the case may be, the ratable share of such unpaid amount (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), based on the aggregate of such Senior Lender's Construction/Term Loan Commitments to the aggregate of all Senior Secured Debt Commitments; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the P1 Intercreditor Agent, the P1 Collateral Agent or the applicable Related Party, in its capacity as such. The obligations of the Senior Lenders to make payments pursuant to this Section 14.8(c) are several and not joint and shall survive the payment in full of the Obligations and the termination of this Agreement. The failure of any Senior Lender to make payments on any date required hereunder shall not relieve any other Senior Lender of its corresponding obligation to do so on such date, and no Senior Lender shall be responsible for the failure of any other Senior Lender to do so.

- (d) All amounts due under this Section 14.8 shall be payable promptly after demand therefor.
- (e) The Borrower agrees that, without the Credit Agreement Indemnitee's prior written consent, it will not settle, compromise or consent to the entry of any judgment in any pending or threatened (in writing) claim, action or proceeding in respect of which indemnification could be sought by or on behalf of such Credit Agreement Indemnitee under this Section 14.8 (whether or not any Credit Agreement Indemnitee is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of such Credit Agreement Indemnitee from all liability arising out of such claim, action or proceeding. In the event that a Credit Agreement Indemnitee is requested or required to appear as a witness in any action brought by or on behalf of or against the Borrower or any Affiliate thereof in which such Credit Agreement Indemnitee is not named as a defendant, the Borrower agrees to reimburse such Credit Agreement Indemnitee for all reasonable expenses incurred by it in connection with such Credit Agreement Indemnitee appearing and preparing to appear as such a witness, including the reasonable and documented fees and disbursements of its legal counsel. In the case of any claim brought against a Credit Agreement Indemnitee for which the Borrower may be responsible under this Section 14.8, the TCF Administrative Agent, the P1 Collateral Agent, and the Senior Lenders agree (at the expense of the Borrower) to execute such instruments and documents and cooperate as reasonably requested by the Borrower in connection with the Borrower's defense, settlement or compromise of such claim, action or proceeding.
- (f) The P1 Intercreditor Agent and the Related Parties of any of the TCF Administrative Agent, the P1 Collateral Agent, and the P1 Intercreditor Agent are express third party beneficiaries of this Section 14.8.
- (g) This Section 14.8 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

14.9. Interest Rate Limitation

Notwithstanding anything to the contrary contained in any TCF Financing Document, the interest paid or agreed to be paid under the TCF Financing Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Government Rule (the "**Maximum Rate**"). If the TCF Administrative Agent or any Senior Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of such Senior Lender's Construction/Term Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the TCF Administrative Agent or any Senior Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Government Rule, (a) characterize any payment that is not principal as an expense, fee or premium, rather than interest, (b) exclude prepayments and the effects thereof, and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

14.10. No Waiver; Cumulative Remedies

No failure by any Credit Agreement Senior Secured Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other TCF Financing Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other TCF Financing Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

14.11. Notices and Other Communications.

- (a) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or sent by email to the address(es), facsimile number or email address specified for the Borrower, Total Holdings, the TCF Administrative Agent, the P1 Collateral Agent, or the Senior Lenders, as applicable, on Schedule 14.11.
- (b) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; and notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, they shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications shall be effective as provided in Schedule 14.11.
- (c) Unless otherwise prescribed, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided, that if such notice or other communication is not

received during the normal business hours of the recipient, such notice or communication shall be deemed to have been received at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in Schedule 14.11 of notification that such notice or communication is available and identifying the website address therefor. Notwithstanding the above, all notices delivered by the Borrower to the TCF Administrative Agent through electronic communications shall be followed by the delivery of a hard copy.

- (d) Each of the Borrower, the TCF Administrative Agent and the P1 Collateral Agent may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each Senior Lender may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the Borrower, the TCF Administrative Agent and the P1 Collateral Agent.
- (e) The TCF Administrative Agent, the P1 Collateral Agent, and the Senior Lenders shall be entitled to rely and act upon any written notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the TCF Administrative Agent, the P1 Collateral Agent, the Senior Lenders, and the Related Parties of each of them for all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the TCF Administrative Agent, the P1 Collateral Agent, the Senior Lenders by the Borrower may be recorded by the TCF Administrative Agent the P1 Collateral Agent, the Senior Lenders, as applicable, and each of the parties hereto hereby consents to such recording.
- (f) Notwithstanding the above, nothing herein shall prejudice the right of the TCF Administrative Agent, the P1 Collateral Agent, any of the Senior Lenders to give any notice or other communication pursuant to any TCF Financing Document in any other manner specified in such TCF Financing Document.
- (g) the Borrower hereby agrees that it will provide to the TCF Administrative Agent all information, documents and other materials that it is obligated to furnish to the TCF Administrative Agent pursuant to the TCF Financing Documents, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to any Construction/Term Loan Borrowing, (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any Default or Event of Default, or (iv) is required to be delivered to satisfy any condition precedent to any Construction/Term Loan Borrowing (all such non-excluded communications being referred to herein collectively as “**Communications**”), by transmitting the Communications in an electronic/soft medium in a format acceptable to the TCF Administrative Agent at the email addresses specified in Schedule 14.11. In addition, the

Borrower agrees to continue to provide the Communications to the TCF Administrative Agent in the manner specified in the TCF Financing Documents but only to the extent requested by the TCF Administrative Agent.

- (h) the Borrower further agrees that the TCF Administrative Agent may make the Communications available to the Senior Lenders by posting the Communications on an internet website that may, from time to time, be notified to the Senior Lenders or a substantially similar electronic transmission system (the “**Platform**”). The costs and expenses incurred by the TCF Administrative Agent in creating and maintaining the Platform shall be paid by Borrower in accordance with Section 14.6.
- (i) THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE”. THE TCF ADMINISTRATIVE AGENT DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE TCF ADMINISTRATIVE AGENT IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE TCF ADMINISTRATIVE AGENT OR ANY AFFILIATE THEREOF OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, “**AGENT PARTIES**”) HAVE ANY LIABILITY TO THE BORROWER, ANY SENIOR LENDER, OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER’S OR ANY AGENT PARTY’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY AGENT PARTY IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH AGENT PARTY’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

14.12. Patriot Act Notice

Each of the TCF Administrative Agent, the P1 Collateral Agent, and the Senior Lenders hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such TCF Administrative Agent, the P1 Collateral Agent or such Senior Lender, as applicable, to identify the Borrower in accordance with the Patriot Act.

14.13. Payments Set Aside

To the extent that any payment by or on behalf of the Borrower is made to the TCF Administrative Agent, the P1 Collateral Agent, any Senior Lender, or the TCF Administrative Agent, the P1 Collateral Agent, or any Senior Lender (as the case may be) exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the TCF Administrative Agent, the P1 Collateral Agent or such Senior Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any bankruptcy or insolvency proceeding or otherwise, then (a) to the extent of such recovery, the Obligation or part thereof originally intended to be satisfied by such payment shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Senior Lender severally agrees to pay to the TCF Administrative Agent or the P1 Collateral Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the TCF Administrative Agent or the P1 Collateral Agent, as the case may be, plus interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Senior Lenders under this Section 14.13 shall survive the payment in full of the Obligations and the termination of this Agreement.

14.14. Right of Setoff

Each of the Senior Lenders and each of their respective Affiliates is hereby authorized at any time and from time to time during the continuance of an Event of Default, to the fullest extent permitted by applicable Government Rule, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Senior Lender, or any such Affiliate to or for the credit or the account of the Borrower against any and all of the Obligations of the Borrower now or hereafter existing under this Agreement or any other TCF Financing Document to such Senior Lender, irrespective of whether or not such Senior Lender shall have made any demand under this Agreement or any other TCF Financing Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Senior Lender different from the branch or office holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (a) all amounts so set off shall be paid over immediately to the TCF Administrative Agent for further application in accordance with this Section 14.4 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the TCF Administrative Agent, the P1 Collateral Agent and the Senior Lenders, and (b) the Defaulting Lender shall provide promptly to the TCF Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each of the Senior Lenders and their respective Affiliates under this Section 14.14 are in addition to other rights and remedies (including other rights of setoff) that such Senior Lender or their respective Affiliates may have. Each of the Senior Lenders agrees to notify the Borrower and the TCF Administrative Agent promptly after any such setoff and application; provided, that the failure to give such notice shall not affect the validity of such setoff and application.

14.15. Severability

If any provision of this Agreement or any other TCF Financing Document is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other TCF Financing Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

14.16. Survival

Notwithstanding anything in this Agreement to the contrary, Section 5.1, Section 5.3, Section 5.5, Section 5.6, Section 13.6, Section 14.3, Section 14.6, Section 14.8, Section 14.11, Section 14.13, this Section 14.16, Section 14.18, and Section 14.20 shall survive any termination of this Agreement. In addition, each representation and warranty made hereunder and in any other TCF Financing Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties shall be considered to have been relied upon by the Credit Agreement Senior Secured Parties regardless of any investigation made by any Credit Agreement Senior Secured Party or on their behalf and notwithstanding that the Credit Agreement Senior Secured Parties may have had notice or knowledge of any Default or Event of Default at the time of the Construction/Term Loan Borrowing, and shall continue in full force and effect as of the date made or any date referred to herein as long as any Construction/Term Loan or any other Obligation hereunder or under any other TCF Financing Document shall remain unpaid or unsatisfied.

14.17. Treatment of Certain Information; Confidentiality

The TCF Administrative Agent, the P1 Collateral Agent and each of the Senior Lenders agrees to maintain the confidentiality of the Credit Agreement Information, except that Credit Agreement Information may be disclosed (a) to its Affiliates (including branches) and to its and its Affiliates' respective shareholders, members, partners, directors, officers, employees, agents, advisors, auditors, service providers and representatives (provided, that the Persons to whom such disclosure is made will be informed prior to disclosure of the confidential nature of such Credit Agreement Information and instructed to keep such Credit Agreement Information confidential); (b) to the extent requested or required by any regulatory authority purporting to have jurisdiction over it or to any Federal Reserve Bank or central bank in connection with a pledge or assignment pursuant to Section 14.4(e); (c) to the extent required by applicable Government Rule or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or under any other TCF Financing Document or any suit, action or proceeding relating to this Agreement or any other TCF Financing Document or the enforcement of rights hereunder or thereunder (including any actual or prospective purchaser of Collateral); (f) subject to an agreement containing provisions substantially the same as those of this Section 14.17, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of

or Participant in, any of its rights or obligations under this Agreement (or such Eligible Assignee or Participant's or prospective Eligible Assignee or Participant's professional advisor), (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of the Borrower, or (iii) any Person (and any of its officers, directors, employees, agents or advisors) that may enter into or support, directly or indirectly, or that may be considering entering into or supporting, directly or indirectly, either (A) contractual arrangements with the TCF Administrative Agent, the P1 Collateral Agent, such Senior Lender, or any Affiliates thereof, pursuant to which all or any portion of the risks, rights, benefits or obligations under or with respect to any Construction/Term Loan or TCF Financing Document is transferred to such Person or (B) an actual or proposed securitization or collateralization of, or similar transaction relating to, all or a part of any amounts payable to or for the benefit of any Senior Lender under any TCF Financing Document (including any rating agency); (g) with the consent of the Borrower (which consent shall not unreasonably be withheld, conditioned or delayed); (h) to any state, federal or foreign authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating the TCF Administrative Agent, the P1 Collateral Agent, any Senior Lender or any of their respective Affiliates; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Credit Agreement Information relating to the Borrower received by it from any Senior Lender, the TCF Administrative Agent or the P1 Collateral Agent, as applicable); or (j) to any party providing (and any brokers arranging) any Credit Agreement Senior Secured Party insurance or reinsurance or other direct or indirect credit protection (including credit default swaps) with respect to its Construction/Term Loans. In addition, the TCF Administrative Agent, the P1 Collateral Agent or any Senior Lender may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the TCF Administrative Agent, the P1 Collateral Agent and the Senior Lenders in connection with the numbering, administration, settlement and management of this Agreement, the other TCF Financing Documents, the Construction/Term Loan Commitments, and the Construction/Term Loan Borrowings. For the purposes of this Section 14.17, "**Credit Agreement Information**" means written information that is furnished by or on behalf of the Borrower, the Pledgor, the Equity Owners or any of their Affiliates to the TCF Administrative Agent, the P1 Collateral Agent or any Senior Lender pursuant to or in connection with any TCF Financing Document, relating to the assets and business of the Borrower, the Pledgor, the Equity Owners, the RG Facility Entities or any of their Affiliates, but does not include any such information that (x) is or becomes generally available to the public other than as a result of a breach by the TCF Administrative Agent, the P1 Collateral Agent, such Senior Lender of its obligations hereunder, (y) is or becomes available to the TCF Administrative Agent, the P1 Collateral Agent or such Senior Lender from a source other than the Borrower, the Pledgor, the Equity Owners or any of their Affiliates, as applicable, that is not, to the knowledge of the TCF Administrative Agent, the P1 Collateral Agent or such Senior Lender acting in violation of a confidentiality obligation with the Borrower, the Pledgor, the Equity Owners or any of their Affiliates, as applicable, or (z) is independently compiled by the TCF Administrative Agent, the P1 Collateral Agent or such Senior Lender as evidenced by their records, without the use of the Credit Agreement Information. Any Person required to maintain the confidentiality of Credit Agreement Information as provided in this Section 14.17 shall be considered to

have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Credit Agreement Information as such Person would accord to its own confidential information.

Additionally, disclosure of any confidential document that contains confidentiality restrictions that require any Loan Party or any of their Affiliates, as applicable, to comply with a restricted disclosure procedure, or if any Offtake Agreement contains commercially sensitive information and is identified as such by the Borrower to the TCF Administrative Agent (each such document, a "Restricted Document") shall only be permitted subject to compliance with the following procedures: Restricted Documents may be disclosed only to the TCF Administrative Agent and the applicable Consultant or legal advisor (to the extent required by such Consultant or legal advisor in order to deliver reports, opinions or certifications required pursuant to any TCF Financing Documents) (subject to (a) compliance with any disclosure procedure required by the counterparty thereto, including execution of incremental confidentiality undertakings or non-disclosure agreements, to the extent necessary or advisable, by the recipients of such documentation and/or (b) redaction of commercially sensitive information in any such disclosed Restricted Documents provided to the TCF Administrative Agent or the applicable Consultant or legal advisor).

14.18. Waiver of Consequential Damages, Etc.

Except with respect to any indemnification obligations of the Borrower under Section 13.6 and Section 14.8 or any other indemnification provisions of the Borrower under any other TCF Financing Document, to the fullest extent permitted by applicable Government Rule, no Party hereto shall assert, and each Party hereto hereby waives, any claim against any other Party hereto or their Related Parties, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other TCF Financing Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Construction/Term Loan or the use of the proceeds thereof. No Party hereto or its Related Parties shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other TCF Financing Documents or the transactions contemplated hereby or thereby.

14.19. Waiver of Litigation Payments

To the extent that any Party hereto may, in any action, suit or proceeding brought in any of the courts referred to in Section 14.3(b) or elsewhere arising out of or in connection with this Agreement or any other TCF Financing Document to which it is a party, be entitled to the benefit of any provision of law requiring any other Party hereto in such action, suit or proceeding to post security for the costs of such Person or to post a bond or to take similar action, each such Person hereby irrevocably waives such benefit, in each case to the fullest extent now or in the future permitted under the laws of the State of New York or, as the case may be, the jurisdiction in which such court is located.

14.20. Reinstatement

This Agreement and the obligations of the Borrower hereunder shall automatically be reinstated if and to the extent that for any reason any payment made pursuant to this Agreement is rescinded or must otherwise be restored or returned, whether as a result of any proceedings in bankruptcy or reorganization or otherwise with respect to the Borrower or any other Person or as a result of any settlement or compromise with any Person (including the Borrower) in respect of such payment, and the Borrower shall pay the Credit Agreement Senior Secured Parties on demand all of their reasonable costs and expenses (including reasonable fees, expenses and disbursements of counsel) incurred by such parties in connection with such rescission or restoration.

14.21. No Recourse

The obligations of the Borrower under this Agreement and each other Credit Agreement Transaction Document to which it is a party, and any certificate, notice, instrument or document delivered pursuant hereto or thereto, are obligations solely of the Borrower and do not constitute a debt or obligation of (and no recourse shall be made with respect to) the Non-Recourse Parties, except (a) as hereinafter set forth in this Section 14.21, (b) as expressly provided in any Credit Agreement Transaction Document to which such Non-Recourse Party is a party, or (c) as expressly provided in any Support Agreement. No action under or in connection with this Agreement or any other TCF Financing Documents to which the Borrower is a party shall be brought against any Non-Recourse Party, and no judgment for any deficiency upon the obligations hereunder or thereunder shall be obtainable by any Senior Secured Party against any Non-Recourse Party, except as hereinafter expressly set forth in this Section 14.21 or as expressly provided in any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained in this Section 14.21 shall in any manner or way (i) restrict the remedies available to the P1 Intercreditor Agent, the P1 Collateral Agent, any Senior Secured Debt Holder Representative or any other Senior Secured Party to realize upon the Collateral or under any Credit Agreement Transaction Document, or constitute or be deemed to be a release of the obligations secured by (or impair the enforceability of) the Liens and the security interests and possessory rights created by or arising from any TCF Financing Document, or (ii) release, or be deemed to release, any Non-Recourse Party from liability for its own willful misrepresentation, fraudulent actions, gross negligence or willful misconduct or from any of its obligations or liabilities under any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. The limitations on recourse set forth in this Section 14.21 shall survive the Discharge Date and shall not restrict the remedies available to any Senior Lender against Total Holdings under any Support Agreement.

14.22. P1 Intercreditor Agreement

Subject to Section 14.30, any actions, consents, approvals, authorizations or discretion taken, given, made or exercised, or not taken, given, made or exercised by the TCF Administrative Agent, acting as the Senior Secured Debt Holder Representative on behalf of the Senior Lenders in accordance with the Collateral and Intercreditor Agreement, shall be binding on each Senior Lender.

14.23. Termination

This Agreement shall terminate and shall have no force and effect (except with respect to the provisions that expressly survive termination of this Agreement) if all Obligations have been indefeasibly paid in full and all Construction/Term Loan Commitments have been terminated and the TCF Administrative Agent shall have given the notice required by Section 2.9(a) (*Payment in Full of Senior Secured Debt*) of the Common Terms Agreement.

14.24. Consultants

Notwithstanding anything to the contrary in Section 8.6 (*Consultants*) of the Common Terms Agreement, the Borrower shall appoint as any replacement Consultant prior to the Credit Agreement Discharge Date the Person designated by the Majority Senior Lenders (after consultation with the Borrower if no Event of Default exists).

14.25. No Fiduciary Duty

The Borrower acknowledges and agrees that (a) no fiduciary, advisory, or agency relationship between the Borrower and any Credit Agreement Senior Secured Party or any of their Affiliates is intended to be or has been created in respect of any of the transactions contemplated by this Agreement or any TCF Financing Document, irrespective of whether any Credit Agreement Senior Secured Parties or their Affiliates have advised or is advising the Borrower on other matters, (b) the Credit Agreement Senior Secured Parties and their Affiliates, on the one hand, and the Borrower, on the other hand, have an arm's-length business relationship that does not directly or indirectly give rise to, nor does the Borrower rely on, any fiduciary duty on the part of any Credit Agreement Senior Secured Party or any of their Affiliates, and (c) the Borrower waives, to the fullest extent permitted by law, any claims that the Borrower may have against any Credit Agreement Senior Secured Party or any of its Affiliates for breach of fiduciary duty or alleged breach of fiduciary duty and agree that the Credit Agreement Senior Secured Parties and their respective Affiliates shall have no liability (whether direct or indirect) to the Borrower in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Borrower, including the Borrower's equity holders, employees, or other creditors.

14.26. Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any TCF Financing Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any TCF Financing Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder that may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:

- (i) a reduction in full or in part or cancellation of any such liability;
- (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other TCF Financing Document; or
- (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

14.27. Cashless Settlement.

Notwithstanding anything to the contrary contained in this Agreement, any Senior Lender may exchange, continue or rollover all or a portion of its Construction/Term Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the TCF Administrative Agent and such Senior Lender.

14.28. Restricted Lenders

Notwithstanding anything to the contrary in Section 6.29, Section 8.7(c), Section 8.7(d) or Section 9.22 of this Agreement, in relation to each Senior Lender that is incorporated in a non-US jurisdiction or that otherwise notifies the TCF Administrative Agent to this effect (each a “**Restricted Lender**”), the representations and undertakings in the provisions of such Sections shall only apply for the benefit of such Restricted Lender and shall only be given by the Borrower to such Restricted Lender to the extent that the sanctions provisions would not result in any violation of, conflict with or liability under (i) EU Regulation (EC) 2271/96, (ii) section 7 of the foreign trade rules (AWV) (Außenwirtschaftsverordnung) (in connection with section 4 paragraph 1 no. 3 and Section 19 paragraph 3 no. 1(a) foreign trade law (AWG) (Außenwirtschaftsgesetz)), or (iii) a similar anti-boycott statute or other applicable Government Rule as in effect in that Restricted Lender’s home jurisdiction

14.29. Disclosure in Connection with Equator Principles.

The TCF Administrative Agent may disclose to the Equator Principles Association (or any successor thereof) the following information in connection with the Project: Project name, Closing Date, sector, and host country.

14.30. Total Holdings.

- (a) The parties hereto acknowledge and agree that, unless and until Total Holdings shall become an Affiliated Lender hereunder, it is a party to this Agreement solely for purposes of this Section 14.30 (for the avoidance of doubt, if Total Holdings becomes an Affiliated Lender hereunder, it shall remain a party hereto for purposes of this Section 14.30 to the extent it remains party to any Support Agreement).

- (b) Notwithstanding anything to the contrary in Section 14.1 or any other provisions of this Agreement or any other Bank Financing Document, the written consent of Total Holdings shall be required with respect to each Reserved Matter.
- (c) Notwithstanding anything to the contrary herein or in any other Bank Financing Document, with respect to any Intercreditor Vote, each Senior Lender hereby appoints Total Holdings to act on its behalf for purposes of instructing the TCF Administrative Agent, and the TCF Administrative Agent agrees to vote in accordance with each instruction by Total Holdings, in the TCF Administrative Agent's capacity as the Senior Secured Debt Holder Representative for the Senior Lenders under the Collateral and Intercreditor Agreement, including, without limitation, with respect to any decision to:
- (i) approve any Modification, Consent, or Waiver that would (A) impact the rights of any Senior Lender in a manner materially and adversely different from the impact on any other Senior Secured Party, (B) exclude a Senior Lender from being a Senior Secured Creditor, (C) exclude the obligations owing by the Borrower under this Agreement from being Senior Secured Obligations, or (D) have the effect of amending Section 5.2(c) (*Intercreditor Votes; Each Party's Entitlement to Vote*) of the Collateral and Intercreditor Agreement;
 - (ii) approve any Modification, Consent, or Waiver that has the effect of (A) imposing obligations on, or modifying the obligations of, any Senior Lender under the Collateral and Intercreditor Agreement or (B) changing the nature or the scope of, or release of, any Senior Security Interest created under any Senior Security Document (other than as permitted, under the Senior Secured Credit Documents or to give effect to a transaction permitted under or pursuant to the Senior Secured Credit Documents) unless such Modification or release will apply on the same terms to all Senior Secured Debt Holders;
 - (iii) approve any Modification, Consent, or Waiver that has the effect of changing the ranking or priority of the rights to payments or Senior Security Interests of the Senior Secured Parties under the Senior Secured Credit Documents;
 - (iv) approve any Modification, Consent or Waiver that has the effect in respect of the level or the order of priority of payments from the P1 Accounts under Sections 3.3(c) (*P1 Revenue Account*), 3.5(e) (*P1 Debt Payment Account*), or 3.6 (*Debt Service Reserve Accounts*) of the P1 Accounts Agreement; or
 - (v) approve any Modification that has the effect of changing the terms of Sections 3.6 (*Release of Liens*), 3.10 (*Further Assurances in Respect of Collateral*), 4.1 (*Acknowledgement of Senior Secured Obligations*), 4.2 (*Accession to this Agreement*), 4.4 (*Payment in Full or Termination of Senior Secured Obligations*), 6.1 (*Modifications, Consents and Waivers of and under Senior Secured Debt Instruments*), 6.3 (*Modifications, Consents and Waivers of and under the Common Terms Agreement*), 9.1

(Generally), 9.2 (Loss of Proceeds), 9.3 (Asset Sale Proceeds), 9.4 (Performance Liquidated Damages and Termination Payments), 9.5 (Distribution of Common Facilities Proceeds), 9.6 (Distribution Sweep Proceeds), 9.7 (Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action), 9.8 (Application of Collateral Proceeds to the Senior Secured Obligations Following an Enforcement Action), 9.15 (No Separate Security), 11.2 (Rights as a Senior Secured Creditor), 11.5 (Reliance by the P1 Collateral Agent), 11.7 (Resignation and Removal of the P1 Collateral Agent), 15.9 (Governing Law), 15.10 (Jurisdiction; Services of Process), 15.11 (Service of Process), and 15.12 (Immunity) of the Collateral and Intercreditor Agreement, and Sections 2.8 (Transfers and Holding of Senior Secured Obligations), 2.9 (Payment in Full of Senior Secured Debt), and 4.8 (Taxes) of the Common Terms Agreement.

- (d) Total Holdings accepts the appointment under clause (c) above and agrees to act on behalf of the Senior Lenders in accordance with this Agreement. Total Holdings shall not have any duties or responsibilities, except those expressly set forth herein, nor shall Total Holdings have or be deemed to have any fiduciary relationship with any Senior Lender or other Credit Agreement Senior Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into any TCF Financing Document or otherwise exist against Total Holdings.
- (e) Clauses (c) and (d) above are solely for the benefit of Total Holdings and the Senior Lenders, and no other Person shall have rights as a third party beneficiary of any of such clauses.

[Remainder of page intentionally blank. Next page is signature page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers as of the day and year first above written.

RIO GRANDE LNG, LLC,
as the Borrower

By:
Name:
Title:

[Signature Page to TCF Credit Agreement]

TOTALENERGIES HOLDINGS SAS,
as Total Holdings

By:
Name:
Title:

[Signature Page to TCF Credit Agreement]

MUFG BANK, LTD.,
as the TCF Administrative Agent and as
Senior Lender

By:

Name:

Title:

By:

Name:

Title:

[Signature Page to TCF Credit Agreement]

MIZUHO BANK (USA),
as the P1 Collateral Agent

By:

Name:

Title:

[Signature Page to TCF Credit Agreement]

DEFINITIONS

"Acceptable Bank" means a bank whose long-term unsecured and unguaranteed debt is rated ~~by~~ at least "A-" (or the then-equivalent rating) by S&P and "A3" (or the then-equivalent rating) one of S&P, Fitch or Moody's and at least one such rating is equal to or better than "A-" by S&P or Fitch or "A3" by Moody's and, in any case, with ~~has~~ a combined capital and surplus of at least \$1,000,000,000.

"Acceptable Distribution Guarantor" means a Person that is rated by at least one of S&P, Fitch or Moody's and at least one such rating is equal to or better than "A-" by S&P or Fitch or "A3" by Moody's.

"ACQ" has the meaning assigned to such term in the applicable Credit Agreement Designated Offtake Agreement.

"Additional Material Project Document" means any Project Document entered into by the Borrower with any other Person subsequent to the Closing Date that:

- (a) replaces or substitutes for an existing Material Project Document;
- (b) is a guarantee provided in favor of the Borrower by a guarantor or a counterparty, in each case, under a Material Project Document;
- (c) is the APCI License Agreement (at the time of assignment to the Borrower);
- (d) ~~any is a~~ Time Charter Party Agreements entered into after the Closing Date pursuant to which the Borrower maintains LNG Tanker capacity required to ship the aggregate volume of LNG subject to delivery obligations at such time pursuant to Credit Agreement Designated Offtake Agreements that are on Delivered terms; or
- (e) except as provided in clauses (a), (b), (c) and or (d) above, contains obligations and liabilities equal to or in excess of \$150,000,000 over its term and a committed term of at least eight years,

provided, that the term Additional Material Project Document shall not include (w) any Offtake Agreement that is not a Designated Offtake Agreement, and any guarantee thereof, (x) any Time Charter Party Agreement other than those referenced in the foregoing clause (d), (y) any Real Property Document, and (z) any document relating to Senior Secured Debt entered into in accordance with the TCF Financing Documents.

"Administrator Affiliate" has the meaning assigned to such term in the Definitions Agreement.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliated Lender" means, at any time, any Senior Lender that is an Equity Owner or any Affiliate of an Equity Owner (other than the Pledgor, the Borrower, any RG Facility Entity, any Debt Fund Affiliate, or any natural Person) or a Non-Debt Fund Affiliate of an Equity Owner at such time.

"Affiliated Lender Assignment Agreement" has the meaning assigned to such term in Section 14.4(f)(i).

"Affiliated Lender Cap" has the meaning assigned to such term in Section 14.4(f)(iii).

"Agent Parties" has the meaning assigned to such term in Section 14.11(i).

"Aggregate Construction/Term Loan Commitment" means \$800,000,000, as the same may be reduced in accordance with Section 2.4.

"Aggregate Construction/Term Loan Tranche A Commitment" means the amount specified in Section 2.1(f) in respect of Tranche A, as the same may be reduced in accordance with Section 2.4.

"Aggregate Construction/Term Loan Tranche Commitment" means, with respect to any Tranche, the amount specified in Section 2.1(f) in respect of such Tranche, as the same may be reduced in accordance with Section 2.4.

"Aggregate Funded Equity" has the meaning assigned to such term in the P1 Equity Contribution Agreement.

"Agreement" has the meaning assigned to such term in the Preamble.

"Alternative Pipelines" has the meaning assigned to such term in Section 6.32.

"Amortization Schedule" means the amortization schedule set forth in Schedule 4.1(a).

"Annual Capital Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual Capital Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual Facility Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual O&M Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual O&M Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual Operating Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual Operating Plan" has the meaning assigned to such term in the Definitions Agreement.

"Anti-Corruption Laws" means the U.S. Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§78m, 78dd-1 through 78dd-3 and 78ff, et seq., and all similar laws, rules, and regulations of any jurisdiction prohibiting bribery and corruption, including the U.K. Bribery Act, applicable to the Borrower or any of its subsidiaries at the relevant time.

"Anti-Terrorism and Money Laundering Laws" means any of the following (a) Section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (Title 12, Part 595 of the US Code of Federal Regulations), (b) the Terrorism Sanctions Regulations (Title 31 Part 595 of the US Code of Federal Regulations), (c) the Terrorism List Governments Sanctions Regulations

(Title 31 Part 596 of the US Code of Federal Regulations), (d) the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the US Code of Federal Regulations), (e) the USA Patriot Act of 2001 (Pub. L. No. 107-56), (f) the U.S. Money Laundering Control Act of 1986, as amended, (g) the Bank Secrecy Act, 31 U.S.C. sections 5301 et seq., (h) Laundering of Monetary Instruments, 18 U.S.C. section 1956, (i) Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 18 U.S.C. section 1957, (j) the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations (Title 31 Part 103 of the US Code of Federal Regulations), (k) any other similar federal Government Rule having the force of law and relating to money laundering, terrorist acts or acts of war, and (l) any regulations promulgated under any of the foregoing.

"Applicable Margin" means (a) in respect of Construction/Term Loans that are SOFR Loans, 2.25% and (b) in respect of Construction/Term Loans that are Base Rate Loans, 1.25%.

"Approved Fund" means any fund administered or managed by (a) a Senior Lender, (b) an Affiliate of a Senior Lender, or (c) an entity or an Affiliate of an entity that administers or manages a Senior Lender.

"Approved Owners" means (a) Global Infrastructure Management, LLC, (b) Devonshire Investment Pte. Ltd., (c) MIC TI Holding Company 2 RSC Limited, (d) Global LNG North America Corp., and (e) to the extent satisfying the KYC Requirements, any other Person approved by the Majority Senior Lenders.

"Asset Sale Proceeds" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 5.7(d).

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time that is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank Fee Letters" means each of:

- (a) the TCF Administrative Agent Fee Letter;
- (b) the Upfront Fee Letter; and

- (c) each of the other fee letters entered into by the Borrower and the Senior Lenders (or their Affiliates) on or prior to the Closing Date in respect of the credit facility provided hereunder.

"Bank Financing Documents" means (a) this Agreement, (b) the Bank Fee Letters, (c) the other financing and security agreements, documents and instruments delivered in connection with this Agreement, and (d) each other document designated as a Bank Financing Document by the Borrower and the TCF Administrative Agent.

"Bankruptcy" means, with respect to any Person, the occurrence of any of the following events, conditions or circumstances:

- (a) such Person shall file a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer or consent seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file in a timely manner a petition or motion to vacate or discharge any order, judgment or decree after entry of such order, judgment or decree);
- (b) a case or other proceeding shall be commenced against such Person without the consent or acquiescence of such Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief with respect to such Person or its debts under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of sixty consecutive days;
- (c) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against such Person seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code, or any other present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, and such Person shall acquiesce in the entry of such order, judgment or decree or such order, judgment or decree shall remain undischarged, unvacated or unstayed for ninety days (whether or not consecutive) from the date of entry thereof, or any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its property shall be appointed without the consent or acquiescence of such Person and such appointment shall remain unvacated and unstayed for an aggregate of ninety days (whether or not consecutive);
- (d) such Person shall admit in writing its inability to pay its debts as they mature or shall generally not be paying its debts as they become due;

- (e) such Person shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors;
- (f) such Person shall take any corporate or partnership action for the purpose of effecting any of the foregoing; or
- (g) an order for relief shall be entered in respect of such Person under the Bankruptcy Code.

Section 1.2(d) applies to the definition of Bankruptcy, as used in any other TCF Financing Document.

"Bankruptcy Code" means 11 U.S.C. § 101 et. seq.

"Base Committed Quantity" means 844.880 million MMBtu (equivalent to approximately 16.19 MTPA), being the aggregate ACQ under the Initial Offtake Agreements; provided, that (a) following the full payment of the required amount upon any LNG Sales Mandatory Prepayment, the Base Committed Quantity will be equal to the aggregate ACQ under the Credit Agreement Designated Offtake Agreements used to calculate the amount of Senior Secured Debt that the Borrower is not required to repay upon an LNG Sales Mandatory Prepayment Event under Section 8.5(b), (b) to the extent that any other Offtake Agreement becomes a Credit Agreement Designated Offtake Agreement or an existing Credit Agreement Designated Offtake Agreement is amended to adjust the quantity of LNG contracted to be sold thereunder, the Base Committed Quantity will be equal to the aggregate ACQ under such Credit Agreement Designated Offtake Agreements as at such time, and (c) following any other mandatory prepayment or voluntary prepayment of Senior Secured Debt, the Base Committed Quantity will be reduced to the minimum ACQ under the Credit Agreement Designated Offtake Agreements in effect at such time that is required to achieve a Credit Agreement Projected DSCR of at least 1.45:1.00 based on the Base Case Forecast updated only to reflect such prepayment.

"Base Rate" means, for any day, a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day *plus* 0.50%, and (c) Daily Compounded SOFR in effect on such day *plus* 1.00%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or Daily Compounded SOFR shall be effective from and including the effective date of such change in the Base Rate, the Federal Funds Effective Rate or Daily Compounded SOFR, respectively.

"Base Rate Loan" means any Construction/Term Loan bearing interest at a rate determined by reference to the Base Rate and the provisions of Article 2 and Article 4.

"Benchmark" means, initially, Daily Compounded SOFR ;provided, that if a Benchmark Transition Event has occurred with respect to Daily Compounded SOFR or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 5.7(a).

"Benchmark Replacement" means, with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by the TCF Administrative Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment; provided that, if

such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other TCF Financing Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the TCF Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

- (a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof); or
- (b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) have been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, if such Benchmark is a term rate, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

- (a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a

term rate, all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof);

- (b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof) or, if such Benchmark is a term rate, any Available Tenor of such Benchmark (or such component thereof); or
- (c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) or, if such Benchmark is a term rate, all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, if such Benchmark is a term rate, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Transition Start Date**” means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“**Benchmark Unavailability Period**” means the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any TCF Financing Document in accordance with Section 5.7 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any TCF Financing Document in accordance with Section 5.7.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Bookrunner" means MUFG Bank, Ltd., not in its individual capacity, but as the bookrunner hereunder.

"Borrower" has the meaning assigned to such term in the Preamble.

"Borrower Advance Certificate" means a certificate of an Authorized Officer of the Borrower delivered pursuant to Section 7.2(c), substantially in the form of Exhibit K.

"Borrower Term Conversion Certificate" means a certificate of an Authorized Officer of the Borrower with respect to the Term Conversion Date substantially in the form of Exhibit M.

"Borrowing Date" means the date on which funds are disbursed by the Senior Lenders (or the TCF Administrative Agent on their behalf) to the Borrower in accordance with Section 2.3 and Section 2.10.

"Borrowing Notice" means each request for Construction/Term Loan Borrowing of Construction/Term Loans substantially in the form of Exhibit D-1 and delivered in accordance with Section 2.2.

"Canada Blocked Person" means (i) a "terrorist group" as defined for the purposes of Part II.1 of the Criminal Code (Canada), as amended or (ii) a Person identified in or pursuant to (w) Part II.1 of the Criminal Code (Canada), as amended or (x) the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, as amended or (y) the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), as amended or (z) regulations or orders promulgated pursuant to the Special Economic Measures Act (Canada), as amended, the United Nations Act (Canada), as amended, or the Freezing Assets of Corrupt Foreign Officials Act (Canada), as amended, in any case pursuant to this clause (ii) as a Person in respect of whose property or benefit a holder of Notes would be prohibited from entering into or facilitating a related financial transaction.

"Capital Improvement Completion Date" means the date when the Independent Engineer shall have certified in writing to the P1 Intercreditor Agent that completion of the applicable Capital Improvement has occurred.

"Cash Equity Financing" means the commitment of the Pledgor, pursuant to the P1 Equity Contribution Agreement, to directly or indirectly make cash contributions to the Borrower up to the Remaining Equity Amount (as defined in the P1 Equity Contribution Agreement).

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9604, et seq.), as amended, and rules and regulations issued thereunder.

"CFCo Deed of Trust" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Change in Law" means (a) the adoption or introduction of any law, rule, directive, guideline, decision or regulation after the Closing Date, (b) any change in law, rule, directive, guideline, decision or regulation or in the interpretation or application thereof by any Government Authority charged with its interpretation or administration after the Closing Date, or (c) compliance by any Senior Lender, by any lending office of such Senior Lender, or by such Senior Lender's holding company, if any, with any written request, guideline, decision or

directive (whether or not having the force of law but if not having the force of law, then being one with which the relevant party would customarily comply) of any Government Authority charged with its interpretation or administration made or issued after the Closing Date; provided, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law" regardless of the date enacted, adopted, issued or implemented.

"Change of Control" means:

- (a) prior to the Term Conversion Date, the Sponsor and the Approved Owners collectively fail to directly or indirectly hold legally and beneficially more than 50% of the total voting and economic Equity Interests of the Borrower and voting Equity Interests of the Pledgor;
- (b) prior to the Term Conversion Date, the Sponsor fails to directly or indirectly hold legally and beneficially 15 % or more of the voting and economic Equity Interests of the Borrower;
- (c) on and after the Term Conversion Date, the Sponsor, any Approved Owners, any Qualified Public Company, any Qualified Investment Entity, any Qualified Offtaker Investor, and any Qualified Energy Company collectively fail to directly or indirectly hold legally and beneficially more than 50% of the total voting and economic Equity Interests of the Borrower; or
- (d) at any time, the Pledgor fails to hold legally and beneficially 100% of the total voting and economic Equity Interests in the Borrower;

provided, that in clauses (a), (b), and (c), any Equity Interests of the Pledgor that are held legally and beneficially through an entity of which the Sponsor, any Approved Owners, any Qualified Investment Entity, any Qualified Offtaker Investor, or any Qualified Energy Company, as applicable, is the general partner and has the power, whether by contract, equity ownership, or otherwise, to direct or cause the direction of the policies and management of such entity, shall be included when calculating such percentage; provided, further, that for purposes of clauses (a) and (c) and the definition of Approved Owners, (x) "Global Infrastructure Management, LLC" means Global Infrastructure Management, LLC, and to the extent satisfying the Senior Lenders' KYC Requirements, its Related Entities and its Affiliates, where (i) "Affiliates" means (A) any Person that is managed or advised by Global Infrastructure Management, LLC or its Related Entities or (B) any trustee, custodian, or nominee of any fund managed or advised by Global Infrastructure Management, LLC or its Related Entities and (ii) "advised" means being in receipt of an implementing advice in relation to the management of investments of that Person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant Person, (y) "Devonshire Investment Pte. Ltd." means Devonshire Investment Pte. Ltd., its Related Entities and its Affiliates, where "Affiliates" means any Person that is, or is managed or advised by, GIC Private Limited or its Related Entities and (z) "MIC TI Holding Company 2 RSC Limited" means MIC TI Holding Company 2 RSC Limited, its Related Entities and its Affiliates, where

“Affiliates” means the government of the Emirate of Abu Dhabi and any Person it Controls, whether directly or indirectly.

“Change Order” means, as the context may require, a “Change Order” as defined in the T1/T2 EPC Contract, a “Change Order” as defined in the **T3** EPC Contract, or both.

“Closing Date” means the date on which the conditions precedent in Section 7.1 have been satisfied or waived in accordance with this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral Proceeds” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Commitment Fees” means the fees set forth in Section 4.13(a).

“Commitment Letter” means the TCF Commitment Letter, dated as of July 12, 2023, among the Borrower, the Senior Lenders, the Coordinating Lead Arranger, the Bookrunner, the Syndication Agent and the TCF Administrative Agent.

“Common Deed of Trust” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Common Facilities Sublease” has the meaning assigned to such term in the Definitions Agreement.

“Common Terms Agreement” means that certain Common Terms Agreement, dated as of July 12, 2023, by and among the Borrower, each Senior Secured Debt Holder Representative that is a party thereto, and the P1 Intercreditor Agent.

“Common Title Company” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Common Title Policy” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Common Trust Property” means the “Trust Property” as defined in the Common Deed of Trust.

“Communications” has the meaning assigned to such term in Section 14.11(g).

“Conforming Changes” means, with respect to either the use or administration of Daily Compounded SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), **the** timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 5.5 and other technical, administrative or operational matters) that the TCF Administrative Agent decides (after consultation with the Borrower) may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration

thereof by the TCF Administrative Agent in a manner substantially consistent with market practice (or, if the TCF Administrative Agent decides (after consultation with the Borrower) that adoption of any portion of such market practice is not administratively feasible or if the TCF Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the TCF Administrative Agent decides (after consultation with the Borrower) is reasonably necessary in connection with the administration of this Agreement and the other TCF Financing Documents).

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consent” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Consent Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Construction Budget and Schedule” means (a) a budget attached as Exhibit O-1 setting forth, on a monthly basis, the timing and amount of all projected payments of P1 Project Costs through the date on which T1 Substantial Completion, T2 Substantial Completion, and T3 Substantial Completion shall have occurred and (b) a schedule attached as Exhibit O-2 setting forth the proposed engineering, procurement, construction and testing milestone schedule for the Project’s Development through the projected date on which Final Completion shall have occurred under each of the P1 EPC Contracts, which budget and schedule shall (i) be certified by the Borrower as the best reasonable estimate of the information set forth therein as of the Closing Date, (ii) be consistent with the requirements of the Credit Agreement Transaction Documents, and (iii) as of the Closing Date, be in form and substance acceptable to the Senior Lenders in consultation with the Independent Engineer, in each case as may be amended, supplemented or otherwise modified to take into account any Change Orders permitted under Section 9.13(d).

“Construction/Term Loan” means each loan made pursuant to Section 2.1(a), Section 2.2, and Section 2.10.

“Construction/Term Loan Availability Period” means the period commencing on the Closing Date and ending on the earliest to occur of (a) the Term Conversion Date, (b) the Date Certain, and (c) the date the Construction/Term Loan Commitments are terminated upon the occurrence and during the continuance of an Event of Default.

“Construction/Term Loan Borrowing” means each disbursement of Construction/Term Loans by the Senior Lenders (or the TCF Administrative Agent on their behalf) on any single date to the Borrower in accordance with Section 2.3 and Section 2.10.

“Construction/Term Loan Commitment” means, with respect to each Senior Lender, the commitment of such Senior Lender to make Construction/Term Loans, as set forth opposite the name of such Senior Lender in the column entitled “Construction/Term Loan Commitment” in Schedule 2, or if such Senior Lender has entered into one or more Lender Assignment Agreements, set forth opposite the name of such Senior Lender in the Register maintained by the TCF Administrative Agent pursuant to Section 2.10(d) as such Senior Lender’s Construction/Term Loan Commitment, as the same may be reduced in accordance with Section 2.4.

“Construction/Term Loan Commitment Percentage” means, as to any Senior Lender at any time, the percentage that such Senior Lender’s Construction/Term Loan Commitment then constitutes of the Aggregate Construction/Term Loan Commitment.

“Construction/Term Loan Extension Request” has the meaning assigned to such term in Section 2.11(a).

“Construction/Term Loan Notes” means the promissory notes of the Borrower, substantially in the form of Exhibit A evidencing Construction/Term Loans, in each case duly executed and delivered by an Authorized Officer of the Borrower in favor of each Senior Lender, including any promissory notes issued by the Borrower in connection with assignments of any Construction/Term Loan of the Senior Lenders, as they may be amended, restated, supplemented or otherwise modified from time to time.

“Construction/Term Loan Tranche A Commitment” means, with respect to each Senior Lender, the commitment of such Senior Lender to make Construction/Term Loans constituting Tranche A, as set forth opposite the name of such Senior Lender in the column entitled “Construction/Term Loan Tranche A Commitment” in Schedule 2, or if such Senior Lender has entered into one or more Lender Assignment Agreements, set forth opposite the name of such Senior Lender in the Register maintained by the TCF Administrative Agent pursuant to Section 2.10(d) as such Senior Lender’s Construction/Term Loan Tranche A Commitment, as the same may be reduced in accordance with Section 2.4.

“Construction/Term Loan Tranche A Percentage” means, as to any Senior Lender at any time, the percentage that such Senior Lender’s Construction/Term Loan Tranche A Commitment then constitutes of the Aggregate Construction/Term Loan Tranche A Commitment.

“Construction/Term Loan Tranche Percentage” means, as to any Senior Lender and any Tranche at any time, the percentage that such Senior Lender’s Construction/Term Loan Commitment in respect of such Tranche then constitutes of the Aggregate Construction/Term Loan Tranche Commitment in respect of such Tranche.

“Contest” or “Contested” means, with respect to any Person, with respect to any Taxes or any Lien imposed on Property of such Person (or the related underlying claim for labor, material, supplies or services) by any Government Authority for Taxes or with respect to obligations under ERISA or any mechanics’ lien (each, a **“Subject Claim”**), a contest of the amount, validity or application, in whole or in part, of such Subject Claim pursued in good faith and by appropriate legal, administrative or other proceedings diligently conducted so long as appropriate reserves have been established with respect to any such Subject Claim in accordance with GAAP.

“Contingency” means the Dollar amount identified as “Contingency” in the Construction Budget and Schedule to be used to fund payment of P1 Project Costs reasonably and necessarily incurred by the Borrower that are not line items, or are in excess of the line item amounts (except as contingency line items), in the Construction Budget and Schedule.

“Contracted Projected CFADS” means, for any period, an amount equal to (a) the amount of Cash Flow from Contracted Revenues projected to be received by the Borrower during such period *minus* (b) all amounts projected to be paid by the Borrower during such period pursuant to Sections 3.2(c)(i) and 3.2(c)(ii) (*P1 Revenue Account*) of the P1 Accounts Agreement **(other than any non-recurring fee projected to be payable to any Senior Secured Party)** which amounts under this clause (b) shall exclude any such amounts that (i) are related to the lifting of LNG, (ii) are P1 Project Costs EPC CAPEX (as defined in the Definitions Agreement), or RCI Owners’ Costs (as defined in the Definitions Agreement), in each case, to the extent funded with Indebtedness or equity.

“Contracted Revenues” means, for any period, Cash Flow projected to be received by the Borrower during such period under ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements **then in effect**, calculated solely to reflect the price paid if no LNG is lifted under ~~Qualified~~ **Credit Agreement Designated** Offtake Agreements then in effect.

“Controlled Subsidiary” means, with respect to any specified Person, a corporation, partnership, joint venture, limited liability company or other Person of which a majority of the Equity Interests of such Person having ordinary voting power or authority for the election or appointment of directors, managers or other governing body (other than Equity Interests having such power or authority only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise Controlled, directly or indirectly through one or more intermediaries, or both, by such specified Person.

“Coordinating Lead Arranger” means MUFG Bank, Ltd., not in its individual capacity, but as the coordinating lead arranger hereunder.

“Coordinator Affiliate” has the meaning assigned to such term in the Definitions Agreement.

“Credit Agreement Debt Service Reserve Amount” means as of any date on and after the Term Conversion Date, an amount reasonably projected by the Borrower to be the amount necessary to pay the forecasted Debt Service in respect of the Construction/Term Loans hereunder from such date through (and including) the next two Quarterly Payment Dates taking into account, with respect to interest, the amount of interest that would accrue on the aggregate principal amount of the Construction/Term Loans for the next six months; provided, that for purposes of calculation of the amount specified in clause (c) of the definition of Debt Service, any final balloon payment or bullet maturity of Senior Secured Debt shall not be taken into account and instead only the equivalent of the principal payment on the immediately preceding Quarterly Payment Date prior to such balloon payment or bullet maturity shall be taken into account.

“Credit Agreement Designated Offtake Agreement” means, as of any date of determination, each Qualified Offtake Agreement designated by the Borrower pursuant to Section 8.5(a).

“Credit Agreement Discharge Date” means the date on which:

- (a) the P1 Collateral Agent, the TCF Administrative Agent and the Senior Lenders shall have received payment in full in cash of all of the Obligations and all other amounts owing to the P1 Collateral Agent, the TCF Administrative Agent, and the Senior Lenders under the TCF Financing Documents (other than Obligations thereunder that by their terms survive and with respect to which no claim has been made by the applicable Credit Agreement Senior Secured Parties); and
- (b) the Construction/Term Loan Commitments shall have terminated, expired or been reduced to zero Dollars.

“Credit Agreement Event of Abandonment” means any of the following shall have occurred:

- (a) the abandonment, suspension, or cessation of all or a material portion of the activities related to the Development for a period in excess of sixty consecutive days (other than as a result of force majeure so long as the Borrower is diligently attempting to restart the Development); provided, that if any such abandonment, suspension, or cessation is not accompanied by a formal, public announcement by

the Borrower of its intentions as set forth in clause (b) below, such abandonment, suspension, or cessation shall be deemed not to have occurred unless, within 45 days following notice to the Borrower from the P1 Intercreditor Agent requesting the Borrower to deliver a certificate to the effect that it will resume construction or operation as soon as is commercially reasonable, the Borrower has not delivered such certificate or resumed such activities or, if such certificate is delivered, the Borrower has nevertheless not resumed such activities within ninety days following receipt of the notice from the P1 Intercreditor Agent;

- (b) a formal, public announcement by the Borrower of a decision to abandon or indefinitely defer or suspend the Development for any reason;
- (c) any Train Abandonment by the Borrower; or
- (d) the Borrower shall make any filing with FERC giving notice of the intent or requesting authority to abandon the Rio Grande Facility for any reason.

“Credit Agreement Indemnitee” has the meaning assigned to such term in Section 14.8(a).

“Credit Agreement Information” has the meaning assigned to such term in Section 14.17.

“Credit Agreement Maturity Date” means the date that is the seventh anniversary of the Closing Date.

“Credit Agreement Permitted Indebtedness” means:

- (a) Senior Secured Debt and all other Senior Secured Obligations, including all Indebtedness under Senior Secured Hedge Agreements;
- (b) Indebtedness expressly contemplated by a Material Project Document;
- (c) purchase money Indebtedness or Capital Lease Obligations to the extent incurred in the ordinary course of business to finance the acquisition or licensing of intellectual property or items of equipment; provided, that (i) if such obligations are secured, they are secured only by Liens upon the equipment or intellectual property being financed and (ii) the aggregate principal amount and the capitalized portion of such obligations do not at any time exceed \$100,000,000 in the aggregate;
- (d) Permitted Subordinated Debt;
- (e) trade or other similar Indebtedness incurred in the ordinary course of business, which is (i) not more than ninety days past due or (ii) being contested in good faith and by appropriate proceedings;
- (f) contingent liabilities incurred in the ordinary course of business, including the acquisition or sale of goods, services, supplies or merchandise in the ordinary course of business, the endorsement of negotiable instruments received in the ordinary course of business and indemnities provided under any of the Credit Agreement Transaction Documents;
- (g) any obligations of the Borrower under any Other Permitted Hedges;

- (h) to the extent constituting Indebtedness, indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course or other cash management services in the ordinary course of business;
- (i) to the extent constituting Indebtedness, obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, indemnification obligations, obligations to pay insurance premiums, take-or-pay obligations contained in supply or transportation agreements and similar obligations incurred in the ordinary course of business;
- (j) Indebtedness in respect of any bankers' acceptance, letter of credit, warehouse receipt or similar facilities entered into in the ordinary course of business;
- (k) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts;
- (l) Indebtedness in respect of an obligation to pay future insurance premiums on insurance policies required by the Insurance Program (i) within three years of the incurrence of such Indebtedness or (ii) otherwise in customary amounts consistent with the operations and business of the Rio Grande Facility in the ordinary course of business;
- (m) unsecured Indebtedness in an aggregate amount not to exceed \$100,000,000 to finance Permitted Capital Improvements;
- (n) Indebtedness in an aggregate principal amount not to exceed \$250,000,000 to finance the Restoration of the Project following an Event of Loss or an Event of Taking; and
- (o) other unsecured Indebtedness in aggregate principal amount not to exceed \$100,000,000.

"Credit Agreement Projected DSCR" means, for the applicable period, the ratio of (a) Contracted Projected CFADS to (b) Debt Service (other than (i) the principal of the Working Capital Debt and the principal amount of the Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees and up-front fees paid prior to the end of the Construction/Term Loan Availability Period or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under Senior Secured IR Hedge Agreements, in each case, projected to be paid prior to the end of the Construction/Term Loan Availability Period, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, (vi) without duplication of amounts in clause (iv), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements, and (vii) for purposes of satisfying the conditions set forth in Section 9.4(c)(i)(B) and incremental carrying costs of such Senior Secured Debt and the costs associated with arranging, issuing, and incurring the applicable Replacement Debt) projected for such period.

"Credit Agreement Senior Secured Parties" means the Senior Lenders, the TCF Administrative Agent, the P1 Collateral Agent, and each of their respective successors and permitted assigns, in each case in connection with this Agreement, and the Construction/Term Loans.

“Credit Agreement Supplemental Quantities” means, at any time, the positive difference between (a) the Borrower’s share of the Rio Grande Facility’s annual LNG production and (b) the ~~Base Committed Quantity~~ **aggregate ACQ under the then-existing Credit Agreement Designated Offtake Agreements**.

“Credit Agreement Transaction Documents” means, collectively, the TCF Financing Documents (as defined in this Agreement) and the Material Project Documents.

“Daily Compounded SOFR” means, for any day (a **“SOFR Rate Day”**), a rate per annum equal to the greater of (a) SOFR for the day (such day, a **“SOFR Determination Day”**) that is five U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website, and (b) the Floor. If by 5:00 p.m. (New York City time) on the second U.S. Government Securities Business Day immediately following any SOFR Determination Day, SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator’s Website and a Benchmark Replacement Date with respect to the Daily Compounded SOFR has not occurred, then SOFR for such SOFR Determination Day will be SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator’s Website; provided, that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Compounded SOFR for no more than three consecutive SOFR Rate Days. Any change in Daily Compounded SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

“Date Certain” means February 7, 2030; provided, that (a) in case one or more force majeure events interferes with construction of the P1 Train Facilities or P1 Common Facilities or otherwise with the Borrower’s ability to achieve Substantial Completion of the P1 Train Facilities and the P1 Common Facilities by such date, then the Date Certain will be extended by such number of days as such event or events of force majeure delays Substantial Completion of the P1 Train Facilities and the P1 Common Facilities (not exceeding 365 days) and (b) if, on or prior to February 7, 2030, the Borrower certifies to the TCF Administrative Agent (and the Independent Engineer reasonably concurs with such certification in writing) that (i) the only remaining condition to the Term Conversion Date as of the date of delivery of such certification, other than conditions that can only be satisfied on the Term Conversion Date, is completion of the Lenders’ Reliability Test and the delivery of the LRT Certificates and (ii) the Lenders’ Reliability Test has commenced in accordance with the procedures specified in this Agreement and is reasonably expected to be completed on or prior to May 7, 2030, then the “Date Certain” means May 7, 2030.

“Debt Fund Affiliate” means any ~~other~~ Affiliate of the Pledgor **any Equity Owner** other than the ~~Pledgor~~, **the** Borrower, or any RG Facility Entity that is, in each case, a *bona fide* debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course, is not organized for the purpose of making equity investments, and with respect to which (a) any such Debt Fund Affiliate has in place customary information barriers between it and the applicable Equity Owner and any Affiliate of the applicable Equity Owner that is not primarily engaged in the investing activities described above, (b) its managers have fiduciary duties to the investors thereof independent of and in addition to their duties to the applicable Equity Owner and any Affiliate of the applicable Equity Owner, and (c) the Equity Owners and investment vehicles managed or advised by any Equity Owner that are not engaged primarily in making,

purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course do not, either directly or indirectly, make investment decisions for such entity.

"Debtor Relief Laws" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Debtor Relief Plan" means a plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws.

"Declined Replacement Debt Commitments" has the meaning assigned to such term in Section 2.4(c).

"Declined Replacement Debt Proceeds" has the meaning assigned to such term in Section 4.10(f).

"Default" means an event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would become an Event of Default.

"Default Rate" means an interest rate (before as well as after judgment) equal to (a) with respect to overdue principal, the applicable interest rate *plus 2.00% per annum* and (b) with respect to any other overdue amount (including overdue interest), the interest rate applicable to Base Rate Loans ~~in the case of overdue interest or fee~~ *plus 2.00% per annum*.

"Defaulting Lender" means a Senior Lender which (a) has defaulted in its obligations (i) to fund any Construction/Term Loan or otherwise failed to comply with its obligations under Section 2.1, unless (x) such default or failure is no longer continuing or has been cured within two Business Days after such default or failure or (y) such Senior Lender notifies the TCF Administrative Agent and the Borrower in writing that such failure is the result of such Senior Lender's determination that one or more conditions precedent to funding **in accordance with this Agreement** (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) to pay to the TCF Administrative Agent or any other Senior Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Borrower, the TCF Administrative Agent that it does not intend to comply with its obligations under Section 2.1 or has made a public statement to that effect (unless such writing or public statement relates to such Senior Lender's obligation to fund a Construction/Term Loan hereunder and states that such position is based on such Senior Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied **in accordance with this Agreement**), (c) has failed, within three Business Days after written request by the TCF Administrative Agent, the Borrower to confirm in writing to the TCF Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided, that such Senior Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the TCF Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has (i) become the subject of a proceeding under any Bankruptcy Code or any applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state, federal or national

regulatory authority acting in such a capacity, or (e) has become the subject of a Bail-In Action;provided, that for the avoidance of doubt, a Senior Lender shall not be a Defaulting Lender solely by virtue of (i) the ownership or acquisition of any Equity Interest in that Senior Lender or any direct or indirect parent company thereof by a Government Authority or (ii) in the case of a Solvent Person, the precautionary appointment of an administrator, guardian, custodian or other similar official by a Government Authority under or based on the law of the country where such Person is subject to home jurisdiction supervision if Government Rule requires that such appointment not be publicly disclosed, in any case, where such action does not result in or provide such Senior Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Senior Lender (or such Government Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Senior Lender. Any determination by the TCF Administrative Agent that a Senior Lender is a Defaulting Lender under any one or more of the clauses above shall be conclusive and binding absent manifest error, and such Senior Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to the Borrower and each Senior Lender.

“Delay Liquidated Damages” has the meaning assigned to such term in the P1 Accounts Agreement.

“Delegate” has the meaning assigned to such term in the Definitions Agreement.

“Delivered” refers to quantities of LNG sold “cost, insurance and freight,” “cost and freight”, “delivered ex ship”, “delivered at terminal”, or otherwise where the Borrower is responsible for the transportation of LNG to a delivery point other than at the Rio Grande Facility under the terms of the relevant Offtake Agreement.

“Direct Operating Costs” has the meaning assigned to such term in the Definitions Agreement.

“Disbursement Endorsement” means endorsement(s) to the Common Title Policy (dated to the earliest search-through date of all P1 Mortgaged Property covered by such Disbursement Endorsement) in form reasonably acceptable to the TCF Administrative Agent (a) indicating that since the effective date of the Common Title Policy (or the date of the last preceding endorsement(s) to the Common Title Policy, if later), there has been no change in the state of the title to the applicable P1 Mortgaged Property (other than matters constituting Permitted Liens or matters otherwise approved by (i) the P1 Collateral Agent (acting on the instructions of the P1 Intercreditor Agent) or (ii) prior to the SSD Discharge Date under this Agreement, the TCF Administrative Agent), (b) stating the amount of coverage then existing under the Common Title Policy, and (c) updating the date of the Common Title Policy and endorsements to the extent permitted by Texas regulations.

“Disqualified Institution” means (a) any Person set forth by the Borrower on Schedule 14.4(j) as of the Closing Date, as updated from time to time by the Borrower by three Business Days' prior written notice to the TCF Administrative Agent to add any competitor of any Loan Party, Global Infrastructure Management, LLC, TotalEnergies SE, and their respective subsidiaries, and such competitor's Affiliates or (b) any clearly identifiable (solely on the basis of its name or as identified by the Borrower to the TCF Administrative Agent) Affiliate of the entities described in clause (a); provided, that “Disqualified Institution” shall not include in each case a Disqualified Institution Debt Fund Affiliate of any entity not listed under the heading “Group A” in Schedule 14.4(j) hereto; provided, further, that the Borrower shall not add more than two additional entity names per calendar year to “Group A” under Schedule 14.4(j) following the Closing Date; provided, further, that any designation as a “Disqualified Institution” shall not

apply retroactively to any then current Senior Lenders or any entity that has acquired an assignment or participation interest in any Construction/Term Loans in accordance with and under this Agreement.

"Disqualified Institution Debt Fund Affiliate" means a bona fide debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course, is not organized for the purpose of making equity investments, and with respect to which (a) any such Disqualified Institution Debt Fund Affiliate has in place customary information barriers between it and the applicable Disqualified Institution and any Affiliate of the applicable Disqualified Institution that is not primarily engaged in the investing activities described above, (b) its managers have fiduciary duties to the investors thereof independent of and in addition to their duties to the applicable Disqualified Institution and any Affiliate of the applicable Disqualified Institution, and (c) the Disqualified Institution and investment vehicles managed or advised by such Disqualified Institution that are not engaged primarily in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course do not, either directly or indirectly, make investment decisions for such entity.

"Distribution Guaranty" means an unconditional guarantee, in form and substance satisfactory to the TCF Administrative Agent, for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders and the TCF Senior Lenders provided by an Acceptable Distribution Guarantor without recourse to any Loan Party in connection with Section 9.10(a)(ii).

"Distribution LC" an irrevocable, standby letter of credit issued by a Qualifying LC Issuer in connection with Section 9.10(a)(ii) that (a) includes an expiration date no earlier than 364 days following its issuance date, (b) allows the P1 Collateral Agent to make a drawdown of up to the full stated amount in the circumstances permitted under Section 4.10(j), (c) is for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders and the CD Senior Lenders, and (d) is in form and substance reasonably satisfactory to the TCF Administrative Agent.

"DOE Export Authorization" means (a) the Order Granting Long-Term Multi-Contract Authorization to Export LNG to Free Trade Agreement Nations issued by DOE/FE in FE Docket No. 15-190-LNG in its Order No. 3869 on August 17, 2016, and (b) the Opinion and Order Granting Long-Term Multi-Contract Authorization to Export LNG to Non-Free Trade Agreement Nations issued by DOE/FE in FE Docket No. 15-190-LNG in its Order No. 4492 on February 10, 2020, as amended to extend the term in DOE/FE Order No. 4492-A issued on October 21, 2020.

"DOE/FE" means the U.S. Department of Energy, Office of Fossil Energy or, as subsequently renamed, Office of Fossil Energy and Carbon Management.

"DQ List" has the meaning assigned to such term in Section 14.4(j)(iv).

"DSRA Reserve Amount" has the meaning assigned to such term in the P1 Accounts Agreement.

"Easements" means the easements, partial easements, subeasements, leasehold easements, licenses, rights-of-way, additional line agreements, land-use and water crossing licenses, servitudes or permits and other authorizations necessary for the Development of the Project.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country that is subject to the supervision of an EEA Resolution Authority,

(b) any entity established in an EEA Member Country that is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country that is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Eligible Assignee” means (a) any Senior Lender, (b) an Affiliate of any Senior Lender, (c) Total Holdings, (d) any Investment Grade Approved Fund, and (e) any other Person (other than a natural person) approved by the TCF Administrative Agent (in each case, such approval by the TCF Administrative Agent not to be unreasonably withheld, conditioned or delayed and no such approval shall be required for any assignment pursuant to Section 14.4(f)) and, unless an Event of Default shall then be continuing, with the consent of the Borrower and Total Holdings (not to be unreasonably withheld, conditioned or delayed); provided, that the Borrower and Total Holdings shall be deemed to have consented unless it shall object thereto by written notice to the TCF Administrative Agent within five Business Days after having received notice of the proposed assignment; provided, further, that notwithstanding the foregoing, Eligible Assignee shall not include (x) any Defaulting Lender, Loan Party, or any Affiliate or Controlled Subsidiary of any of the foregoing, except any Affiliated Lender or Total Holdings or any Debt Fund Affiliate that is an Investment Grade Approved Fund or (y) any Disqualified Institution.

“Environmental and Social Action Plan” means the Environmental and Social Action Plan attached to the report of the Environmental Advisor delivered pursuant to Section 7.1(f)(vi), together with any updates thereto as may be made from time to time by the Borrower as required or permitted under the TCF Financing Documents.

“Environmental and Social Incident” means a significant and serious incident or accident as a result of the construction or operation of the Project that (a) under the Environmental Laws requires the Borrower to undertake emergency or immediate remedial action and (b) has the following impacts: (i) death, major health disability or material adverse health damage, (ii) material adverse and persistent damage to the environment, or (iii) material destruction of a site or object of cultural or religious significance.

“Equator Principles” means the principles named “The Equator Principles EP4 – A financial industry benchmark for determining, assessing and managing environmental and social risk in projects” adopted by various financial institutions in the form dated July 2020 that became effective on October 1, 2020.

“Equity Credit Support” has the meaning assigned to such term in the P1 Equity Contribution Agreement.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any corporation or trade or business which is a member of any group of organizations: (a) described in Section 414(b) or Section 414(c) of the Code of which the

Borrower is a member and (b) solely for purposes of potential liability under Section 302(b) of ERISA and Section 412(b) of the Code and the lien created under Section 303(k) of ERISA and Section 430(k) of the Code, described in Section 414(m) or Section 414(o) of the Code of which the Borrower is a member.

“ERISA Event” means:

- (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan, other than events for which the 30-day notice period has been waived by current regulation under PBGC Regulation Subsections .27, .28, .29 or .31;
- (b) the failure with respect to any Plan to meet the minimum funding requirements of Section 412 or Section 430 of the Code or Section 302 or Section 303 of ERISA, whether or not waived;
- (c) the filing pursuant to Section 412(c) of the Code or Section 303 of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan;
- (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan;
- (e) the filing of notice of intent to terminate a Plan or the treatment of a Plan amendment as a termination under Section 4041 of ERISA;
- (f) the institution of proceedings to terminate a Plan by PBGC or to appoint a trustee to administer any Plan;
- (g) the withdrawal by the Borrower or any of its ERISA Affiliates from a multiple employer plan (within the meaning of Section 4064 of ERISA) during a plan year in which it was a “substantial employer”, as such term is defined under Section 4064 of ERISA, upon the termination of a Multiemployer Plan or the cessation of operations under a Plan pursuant to Section 4062(e) of ERISA;
- (h) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Multiemployer Plan;
- (i) the attainment of any Plan of “at risk” status within the meaning of Section 430 of the Code or Section 303 of ERISA;
- (j) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in critical, endangered or critical and declining status, within the meaning of the Code or Title IV of ERISA;
- (k) the failure of the Borrower or any ERISA Affiliate to pay when due any amount that has become liable to the PBGC, any Plan or trust established thereunder pursuant to Title IV of ERISA or the Code;

- (l) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 436(f) of the Code;
- (m) the Borrower or any of its Controlled Subsidiaries engages in a “prohibited transaction” within the meaning of Section 4975 of the Code or Section 406 of ERISA that is not otherwise exempt by statute, regulation or administrative pronouncement; or
- (n) the imposition of a lien under ERISA or the Code with respect to any Plan or Multiemployer Plan.

“**Erroneous Payment**” has the meaning assigned to such term in Section 13.12(a).

“**Erroneous Payment Deficiency Assignment**” has the meaning assigned to such term in Section 13.12(d).

“**Erroneous Payment Impacted Class**” has the meaning assigned to such term in Section 13.12(d).

“**Erroneous Payment Return Deficiency**” has the meaning assigned to such term in Section 13.12(d).

“**Erroneous Payment Subrogation Rights**” has the meaning assigned to such term in Section 13.12(f).

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**Event of Default**” means any of the events described in Article 11 or in Article 7 (*Events of Default*) of the Common Terms Agreement.

“Excess Declined Replacement Debt Commitments” has the meaning assigned to such term in Section 2.4(c).

“Excess Declined Replacement Debt Proceeds” has the meaning assigned to such term in Section 4.10(f).

“**Excluded Taxes**” means, with respect to the TCF Administrative Agent or any Senior Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower under any TCF Financing Document, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Person being organized under the laws of, or having its principal office or, in the case of a Senior Lender, its lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Senior Lender, any U.S. federal withholding Tax that is imposed on amounts payable to or for the account of such Person with respect to an applicable interest in a TCF Financing Document pursuant to a law in effect on the date on which (i) such Person acquires such interest in the TCF Financing Document (other than pursuant to an assignment request by the Borrower under Section 5.4) or (ii) such Person changes its lending office, except in each case to the extent, pursuant to Section 5.6, amounts with respect to such Taxes were payable either to such Person’s assignor immediately before such Person became a Party hereto or to such Person immediately

before it changed its lending office, (c) Taxes attributable to such Person's failure to comply with Section 5.6(g) or Section 5.6(h) and (d) any withholding Tax imposed under FATCA.

"Executive Committee" has the meaning assigned to such term in the Definitions Agreement.

"Existing Construction/Term Loans" has the meaning assigned to such term in Section 2.11(a).

"Export Administrator" has the meaning assigned to such term in the Definitions Agreement.

"Export Authorization Remediation" has the meaning assigned to such term in Section 8.5(b)(ii)(A).

"Extended Construction/Term Loans" has the meaning assigned to such term in Section 2.11(a).

"Extending Senior Lender" has the meaning assigned to such term in Section 2.11(b).

"Extension Amendment" has the meaning assigned to such term in Section 2.11(c).

"Extension Election" has the meaning assigned to such term in Section 2.11(b).

"Facility Committee" has the meaning assigned to such term in the Definitions Agreement.

"Facility Independent Engineer" has the meaning assigned to such term in the Definitions Agreement.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Government Authorities and implementing such Sections of the Code.

"FATCA Deduction" means a deduction or withholding from a payment under a TCF Financing Document required by FATCA.

"FATCA Exempt Party" means a Party that is entitled to receive payments free from any FATCA Deduction.

"Federal Funds Effective Rate" means, for any day, the greater of (a) the rate calculated by the Federal Reserve Bank of New York based on such day's Federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the Federal funds effective rate and (b) 0%.

"Fees" means, collectively, each of the fees payable by the Borrower for the account of any Senior Lender or the TCF Administrative Agent pursuant to Section 4.13.

"FERC Authorization" means the authorization to site, construct, and operate the P1 Train Facilities and the Common Facilities originally issued by FERC in its Order in Docket Nos. CP16-454 on November 22, 2019, with rehearing subsequently denied and later remanded by the

Court of Appeals for the D.C. Circuit, and with those certain design modifications approved by FERC in 2020 and 2021, and the FERC Remand Order, as such FERC orders may be amended, supplemented, clarified, restated, reissued, or otherwise modified from time to time by FERC.

“FERC Remand Order” means the order issued by FERC, following the remand by the U.S. Court of Appeals for the D.C. Circuit of the prior FERC Authorization, in Docket Nos. CP16-454 on April 21, 2023.

“Final Completion” means, as the context may require, a “Final Completion” as defined in the T1/T2 EPC Contract, a “Final Completion” as defined in the T3 EPC Contract, or both.

“Flood Certificate” has the meaning assigned to such term in Section 8.17(d)(i).

“Flood Program” has the meaning assigned to such term in Section 8.17(a)(iv)(A).

“Floor” means a rate of interest equal to 0%.

~~**“Force Majeure”** unless otherwise defined herein, has the meaning assigned to such term in the Qualified Offtake Agreements.~~

“Foreign Lender” means any Senior Lender that is not a U.S. Person.

“Funding Shortfall Debt” means Supplemental Debt that satisfies:

- (a) the conditions set forth in Section 2.6 (~~Supplemental Debt~~) of the Common Terms Agreement,
- (b) the conditions set forth in Section 9.4(f) (other than Section 9.4(f)(ii)), and
- (c) the following conditions:
 - (i) the principal amount of such Funding Shortfall Debt does not exceed: (A) (1) if incurred prior to the Term Conversion Date or the ~~completion date of the~~ **Capital Improvement Completion Date of a** Permitted Capital Improvement (as applicable), an amount equal to 75% of the aggregate amount of P1 Project Costs or costs of such Permitted Capital Improvement payable by the Borrower for which such Funding Shortfall Debt is incurred and (2) if incurred on or after the Term Conversion Date or the ~~completion date of the~~ applicable Capital Improvement Completion Date (as applicable), (x) in the case of Funding Shortfall Debt incurred to finance P1 Project Costs, an amount that, together with all funded or unfunded commitments under the Construction/Term Loans, any Replacement Debt incurred to replace such funded or unfunded commitments, and any other Funding Shortfall Debt to finance P1 Project Costs, does not exceed 75% of aggregate P1 Project Costs as at the Term Conversion Date or (y) in the case of Funding Shortfall Debt incurred to finance Permitted Capital Improvements, an amount that, together with all Funding Shortfall Debt to finance such Permitted Capital Improvement, does not exceed 75% of aggregate costs in respect of such Permitted Capital Improvement as at the completion of such Permitted Capital Improvement, *plus* (B) all premiums, fees, costs, expenses, and reserves (including any incremental increase in the DSRA Reserve Amounts

resulting from the incurrence of such Funding Shortfall Debt) associated with arranging, issuing and incurring such Funding Shortfall Debt, *plus* (C) 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any portion of one or more Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;

- (ii) such Funding Shortfall Debt is incurred prior to the second anniversary of the Term Conversion Date or ~~the completion date of such Permitted~~applicable Capital Improvement Completion Date (as applicable); and
- (iii) simultaneously with the incurrence of any Funding Shortfall Debt, the Borrower shall use a portion of the proceeds of such Funding Shortfall Debt to fund any reserves (including any incremental increase in the DSRA Reserve Amounts) resulting from the incurrence of such Funding Shortfall Debt.

“**GURA**” has the meaning assigned to such term in Section 6.16(d).

“**Historical DSCR**” means, as at the end of each Fiscal Quarter (subject to the proviso below), the ratio of (a) Historical CFADS for the preceding four Fiscal Quarter period to (b) the aggregate amount of Debt Service (other than (i) principal of the CD Revolving Loans and Working Capital Debt and the principal amount of any Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees, and up-front fees paid prior to the Project Completion Date or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under the Senior Secured IR Hedge Agreements, in each case, paid prior to the Project Completion Date, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, and (vi) without duplication of amounts in clause (v), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements) paid or payable during the preceding four Fiscal Quarter period; provided, that for any Historical DSCR calculation performed prior to the first anniversary of the Initial Principal Payment Date, the calculation will be based on the number of Fiscal Quarters elapsed since the Initial Principal Payment Date.

“**HMT**” means His Majesty’s Treasury, the economic and finance ministry of the United Kingdom.

“**IE Confirming Certificate**” means, in respect of a Change Order or payment contemplated by Section 9.13(d), a certificate of the Independent Engineer confirming that after giving effect to such Change Order or payment, such Change Order or payment will not result in P1 Project Costs exceeding the funds then available to pay such P1 Project Costs or reasonably expected to be available to the Borrower at the time such P1 Project Costs become due and payable.

“**Illegality Notice**” has the meaning specified in Section 5.1.

“**Indemnified Taxes**” means (a) Taxes imposed on or with respect to any payment made on account of any obligation of the Borrower under any TCF Financing Document, other than Excluded Taxes, and (b) to the extent not otherwise described in clause (a), Other Taxes.

“**Independent Engineer Advance Certificate**” means a certificate of an Authorized Officer of the Independent Engineer delivered pursuant to Section 7.2(b), substantially in the form of Exhibit J.

"Independent Engineer Term Conversion Certificate" means a certificate of an Authorized Officer of the Independent Engineer with respect to the Term Conversion Date substantially in the form of Exhibit L.

"Initial Offtakers" means:

- (a) China Gas Hongda Energy Trading Co., Ltd.;
- (b) Engie S.A.;
- (c) ENN LNG (Singapore) Pte. Ltd.;
- (d) ExxonMobil Asia Pacific Pte. Ltd.;
- (e) Galp Trading S.A.;
- (f) Guangdong Energy Group Natural Gas Co., Ltd.;
- (g) Guangdong Energy Group Co., Ltd.;
- (h) Itochu Corporation;
- (i) Shell NA LNG LLC; and
- (j) TotalEnergies Gas & Power North America, Inc.

"Insurance Advisor Closing Date Certificate" means a certificate of an Authorized Officer of the Insurance Advisor with respect to the Closing Date substantially in the form of Exhibit I.

"Insurance Advisor Term Conversion Certificate" means a certificate of an Authorized Officer of the Insurance Advisor with respect to the Term Conversion Date substantially in the form of Exhibit N.

"Interest Election Request" means a request by the Borrower to convert or continue a Construction/Term Loan Borrowing in accordance with Section 4.5, which shall be in such form as the TCF Administrative Agent may reasonably approve.

"Interest Payment Date" has the meaning assigned to such term in Section 4.3(a).

"International LNG Tanker Standards" has the meaning assigned to such term in the Definitions Agreement.

"International LNG Terminal Standards" has the meaning assigned to such term in the Definitions Agreement.

"Investment Grade" means that such Person is either (a) rated by at least two Recognized Credit Rating Agencies and at least two such ratings are equal to or better than "Baa3" by Moody's, "BBB-" by S&P or Fitch, or comparable credit ratings by Recognized Credit Rating Agencies or (b) (x) rated by at least one Recognized Credit Rating Agencies Agency and at least one such rating is equal to or better than "Baa3" by Moody's, "BBB-" by S&P or Fitch, or a comparable credit rating by a Recognized Credit Rating Agency and (y) has a tangible net worth

in excess of the lesser of (i) \$2,000,000,000 per MTPA of LNG committed to be purchased by such Person pursuant to its applicable Offtake Agreement and (ii) \$7,000,000,000.

"Involuntary Liens" means any non-consensual Lien on the Property of any Person, including:

- (a) Liens for Taxes, including any assessments or other governmental charges;
- (b) mechanic's or materialmen's Liens;
- (c) Lien on any Person's property or assets arising by operation of law;
- (d) defects, imperfections, easements, rights of way, restrictions, irregularities, encumbrances, and clouds of title with respect to any Property; and
- (e) Liens securing judgments for the payment of money.

"KYC Requirements" means the consistently applied "know your customer" requirements of the Senior Lenders under applicable "know your customer" and Anti-Terrorism and Money Laundering Laws, including the Patriot Act.

"LandCo Site Lease" has the meaning assigned to such term in the Definitions Agreement.

"Latest Qualified Term" means, with respect to any group of Credit Agreement Designated Offtake Agreements, the Qualified Term of the Credit Agreement Designated Offtake Agreement with the latest occurring expiration date.

"Lender Assignment Agreement" means a Lender Assignment Agreement, substantially in the form of Exhibit F-1 **or such other form as agreed by the applicable assignor and assignee, the Borrower and the TCF Administrative Agent.**

"Lenders' Reliability Test" means the operational test described in Exhibit P-1 the completion of which is evidenced by delivery of the LRT Certificates.

"Lien Waiver" means the lien and claim waiver statements in the forms attached as (a) Schedules K-1 through K-4, as applicable, to each of the P1 EPC Contracts in connection with all interim Lien and claim waivers delivered by the P1 EPC Contractor or any P1 Major EPC Subcontractors or P1 Major EPC Sub-subcontractors under the P1 EPC Contracts and (b) Schedules K-5 through K-8, as applicable, to each of the P1 EPC Contracts in connection with all final Lien and claim waivers delivered by the P1 EPC Contractor or any P1 Major EPC Subcontractors or P1 Major EPC Sub-subcontractors under the P1 EPC Contracts.

"Liquefaction Owner" means (a) the Borrower and (b) any other Person that (i) is permitted under the CFAA to construct and own the assets comprising a Train Facility, (ii) has entered into a construction advisor services agreement in respect of a Subsequent Train Facility, and (iii) has acceded to the RG Facility Agreements in accordance therewith.

"LNG Sales Mandatory Prepayment" has the meaning assigned to such term in Section 8.5(b).

"LNG Sales Mandatory Prepayment Event" has the meaning assigned to such term in Section 8.5(b).

"Loan Parties" means the Borrower and the Pledgor.

“LRT Certificates” means, collectively, (i) the Physical Completion Certificates and Independent Engineer Physical Completion Certificate Acknowledgements to be delivered with respect to each Train Facility, (ii) the Operational Completion Certificate and Independent Engineer Operational Completion Certificate Acknowledgement, (iii) the Environmental and Social Completion Certificate, and (vi) the Environmental Consultant Environmental and Social Completion Certificate, in each case, substantially in the form attached hereto as Exhibit P-3.

“Major Capital Improvements” means Capital Improvements for which the Borrower’s allocated share of costs pursuant to the CFAA is reasonably expected to be equal to or greater than \$200,000,000.

“Major Decisions” means each of the following confirmations, consents or approvals, to the extent the Borrower has such confirmation, consent or approval rights pursuant to the RG Facility Agreements:

- (a) approve any matter provided for in Section 6.12 (*Decisions by the Owners*) of the CFAA;
- (b) approve any matter provided for in Section 6.2 (*Decisions by the Liquefaction Owners*) of the CFAA;
- (c) agree not to Restore all or any portion of any Common Facilities affected by an Event of Loss pursuant to Section 22.2.1 (*Events of Loss Affecting Common Facilities; Restoration Plans*) of the CFAA;
- (d) confirm its (i) election to defer its election to proceed or not proceed with the Restoration of any Train Facility or (ii) election to proceed with Train Abandonment of any Train Facility, in each case, pursuant to Section 22.3.1 (*Events of Loss Affecting Train Facilities*) of the CFAA;
- (e) approve any Transfer (as defined in the Definitions Agreement) under Section 25.2 (*Permitted Transfers*) of the CFAA;
- (f) approve the selection of any P1 Major EPC Subcontractor or the Operator’s execution of any Major Subcontract; and
- (g) approve the initial start-up procedures for major Liquefaction Project (as defined in the Definitions Agreement) systems related to the **P1** Train Facilities or the **P1** Common Facilities pursuant to Section 3.4(g)(iv) (*Testing and Start-Up*) of the P1 CASA.

“Major Subcontract” has the meaning assigned to such term in the Definitions Agreement.

“Majority Affected Lenders” means with respect to a proposed amendment, waiver, consent or termination which, pursuant to the terms of Section 14.1, requires the consent of all affected lenders, the Senior Lenders holding at least 50.00% of the sum of (a) the aggregate undisbursed Construction/Term Loan Commitments of such affected Senior Lenders *plus* (b) the then aggregate outstanding principal amount of the Construction/Term Loans of such affected Senior Lenders (excluding, in each such case, any Senior Lender that is a Defaulting Lender, a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender (but not excluding, in each of the foregoing cases, Total Holdings in its capacity as a Senior

Lender), and each Construction/Term Loan Commitment and any outstanding principal amount of any Construction/Term Loan of any such Senior Lender).

“Majority Senior Lenders” means at any time, the Senior Lenders holding in excess of 50.00% of the sum of (a) the aggregate undisbursed Construction/Term Loan Commitments *plus* (b) the then aggregate outstanding principal amount of the Construction/Term Loans (excluding, in each such case, any Senior Lender that is a Defaulting Lender, a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender (but not excluding, in each of the foregoing cases, Total Holdings in its capacity as a Senior Lender), and each Construction/Term Loan Commitment and any outstanding principal amount of any Construction/Term Loan of any such Senior Lender).

“Mandatory Prepayment Portion” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Market Terms” means terms consistent with or no less favorable to the Borrower (as seller or buyer, as the case may be) than either: (a) any Credit Agreement Designated Offtake Agreements then in effect or (b) the terms a non-Affiliated seller or buyer, as the case may be, of the relevant product could receive in an arm’s-length transaction based on then-current market conditions for transactions of a similar nature and duration and taking into account such factors as the characteristics of the goods and services, the market for such goods and services (including any applicable regulatory conditions), tax effects of the transaction, the location of the Rio Grande Facility and the counterparties.

“Material Project Party” means any party to a Material Project Document (other than the Borrower) and each guarantor or provider of security or credit support in respect thereof.

“Maximum Rate” has the meaning assigned to such term in Section 14.9.

“Minimum Acceptance Criteria” means, as the context may require, the “Minimum Acceptance Criteria” as defined in the T1/T2 EPC Contract, the “Minimum Acceptance Criteria” as defined in the T3 EPC Contract, or both.

“Modification” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Monthly Transfer Date” has the meaning assigned to such term in the P1 Accounts Agreement.

“MTPA” means million metric tonnes per annum.

“Multiemployer Plan” means a multiemployer plan defined as such in Section 3(37) of ERISA to which contributions have been made by the Borrower or any ERISA Affiliate in the past five years and which is covered by Title IV of ERISA.

“Necessary Senior Secured Debt Instrument” means any Senior Secured Debt Instrument providing for Indebtedness without which the Borrower could not reasonably expect to have sufficient funds (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, committed equity, and projected Contracted Revenues under the Credit Agreement Designated Offtake Agreements) to achieve the Term Conversion Date by the Date Certain.

“NGLs” has the meaning assigned to such term in the Definitions Agreement.

“Non-Consenting Lender” has the meaning assigned to such term in Section 5.4(c).

“Non-Debt Fund Affiliate” means any Affiliate of an Equity Owner other than (a) the Pledgor, the Borrower, or any RG Facility Entity, (b) any Debt Fund Affiliates, and (c) any natural Person.

“Non-Declining Senior Lenders” means, collectively, (a) all Specified Senior Lenders (if any) that did not deliver a notice to the TCF Administrative Agent within the time frame in Section 2.4(c) or Section 4.10(f), as applicable, and (b) all Senior Lenders that are not Specified Senior Lenders.

“Notice of Term Conversion” means the Notice of Term Conversion substantially in the form of Exhibit G.

“Notional Amortization Period” means, beginning on the Term Conversion Date, the notional twenty-year amortization period of the Construction/Term Loans set forth in the Base Case Forecast.

“O&M Costs” has the meaning assigned to such term in the Definitions Agreement.

“Obligations” means, collectively, (a) all Indebtedness, Construction/Term Loans, advances, debts, liabilities (including any indemnification or other obligations that survive the termination of the TCF Financing Documents (excluding any Senior Secured Debt Instrument other than this Agreement)), and all other obligations, howsoever arising (including Guarantee obligations), in each case, owed by the Borrower to the Credit Agreement Senior Secured Parties (or any of them) of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of the TCF Financing Documents (excluding any Senior Secured Debt Instrument other than this Agreement), (b) any and all sums reasonably advanced by any Credit Agreement Senior Secured Party in order to preserve the Collateral or preserve the security interest of the Credit Agreement Senior Secured Parties in the Collateral, and (c) in the event of any proceeding for the collection or enforcement of the obligations described in clauses (a) and (b) above, after an Event of Default shall have occurred and be continuing and the Construction/Term Loans have been accelerated pursuant to Section 12.1 or Section 12.2, the expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Senior Lenders of their rights under the Senior Security Documents, together with any necessary attorneys’ fees and court costs.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“OFAC Laws” means any laws, regulations, and executive orders relating to the economic sanctions programs administered by OFAC, including the International Emergency Economic Powers Act, 50 U.S.C. sections 1701 et seq.; the Trading with the Enemy Act, 50 App. U.S.C. sections 1 et seq.; and the Office of Foreign Assets Control, Department of the Treasury Regulations, 31 C.F.R. Parts 500 et seq. (implementing the economic sanctions programs administered by OFAC).

“OFAC SDN List” means the list of “Specially Designated Nationals and Blocked Persons” maintained by OFAC.

“Offsetting Transactions” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Operating Costs” has the meaning assigned to such term in the Definitions Agreement.

“Operator Affiliate” has the meaning assigned to such term in the Definitions Agreement.

“Organic Document” means, with respect to any Person that is a corporation, its certificate of incorporation, its by-laws and all shareholder agreements, voting trusts and similar arrangements applicable to any of its authorized shares of capital stock, with respect to any Person that is a limited liability company, its certificate of formation or articles of organization and its limited liability company agreement, and, with respect to any Person that is a partnership or limited partnership, its certificate of partnership and its partnership agreement.

“Other Connection Taxes” means, with respect to the TCF Administrative Agent, any Senior Lender or any other recipient of any payment made pursuant to any obligation of the Borrower under any TCF Financing Document, Taxes imposed as a result of a former or present connection between such Person and the jurisdiction imposing such Tax (other than connections arising from such Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any TCF Financing Document, or sold or assigned an interest in any Construction/Term Loan or TCF Financing Document).

“Other Taxes” mean any and all present or future stamp or documentary taxes, court, intangible, recording, filing, or similar Taxes arising from any payment made under any TCF Financing Document or from the execution, delivery or enforcement of, or otherwise with respect to, any TCF Financing Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.4).

“Owner” has the meaning assigned to such term in the Definitions Agreement.

“P1 CASA Advisor” has the meaning assigned to such term in the P1 CASA.

“P1 Common Facilities” has the meaning assigned to such term in the Definitions Agreement.

“P1 Construction Account” has the meaning assigned to such term in the P1 Accounts Agreement.

“P1 Debt Prepayment Account” has the meaning assigned to such term in the P1 Accounts Agreement.

“P1 Deed of Trust” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“P1 Distribution Collateral” means a Distribution LC or a Distribution Guaranty, as the context may require, for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders and the CD Senior Lenders in satisfaction of Section 9.10(a)(ii).

“P1 Equity Guarantor” means any Person that has entered into a P1 Equity Guaranty in accordance with the P1 Equity Contribution Agreement.

"P1 Equity Guaranty" means the "Equity Guaranty" as defined in the P1 Equity Contribution Agreement.

"P1 Project Costs" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Major EPC Sub-subcontractor" means a "Major Sub-subcontractor", as defined in the P1 EPC Contracts.

"P1 Major EPC Subcontractor" means a "Major Subcontractor", as defined in the P1 EPC Contracts.

"P1 Mortgaged Property" means, at any time of determination, all Real Estate included in the Collateral or for which the TCF Financing Documents contemplate inclusion at such time in the Collateral, as applicable.

"P1 Pledge Agreement" means the "Pledge Agreement" as defined in the Collateral and Intercreditor Agreement.

"P1 Pre-Completion Revenue Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Security Agreement" means the "Security Agreement" as defined in the Collateral and Intercreditor Agreement.

"Participant" has the meaning assigned to such term in Section 14.4(d).

"Participant Register" has the meaning assigned to such term in Section 14.4(d).

"Party" or **"Parties"** has the meaning assigned to such term in the Preamble.

"Patriot Act" means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) of 2001, and the rules and regulations promulgated thereunder from time to time in effect.

"Payment Recipient" has the meaning assigned to such term in Section 13.12(a).

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Pension Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Performance Guarantees" has the meaning assigned to such term in the P1 EPC Contracts.

"Performance Liquidated Damages" means any liquidated damages resulting from the Project's performance which are required to be paid by the P1 EPC Contractor or any other Material Project Party for or on account of any diminution to the performance of the Project.

“Performance Test” means the Performance Tests under the P1 EPC Contracts and the Lenders’ Reliability Test.

“Permitted Completion Amount” means a sum equal to an amount certified by the Borrower and the Independent Engineer on the Term Conversion Date and approved by the TCF Administrative Agent (acting reasonably) as necessary to pay 125% of the Permitted Completion Costs.

“Permitted Completion Costs” means unpaid P1 Project Costs (including P1 Project Costs not included in the Construction Budget and Schedule delivered on the Closing Date) reasonably anticipated to be required for the Project to pay all remaining costs associated with outstanding Punchlist (as such term is defined in the P1 EPC Contracts) work, retainage, fuel incentive payments, disputed amounts, and other costs required under the P1 EPC Contracts.

“Permitted Liens” has the meaning assigned to such term in the Collateral and Intercreditor Agreement; provided, that, prior to the Credit Agreement Discharge Date, Liens described in clauses (c), (g), and (h) of Section 3.9 (*Permitted Liens*) of the Collateral and Intercreditor Agreement shall be considered Permitted Liens under the TCF Financing Documents solely to the extent that they are subject to a Contest. Section 1.2(d) applies to the definition of Permitted Liens, as used in any other TCF Financing Document.

“Pipeline Manager Affiliate” has the meaning assigned to such term in the Definitions Agreement.

“Plan” means any “employee benefit plan” as defined in Section 3(3) of ERISA, including any “employee welfare benefit plan” (as defined in Section 3(1) of ERISA) and/or any “employee pension benefit plan” (as defined in Section 3(2) of ERISA), that is or was maintained or contributed to by the Borrower or any ERISA Affiliate.

“Platform” has the meaning assigned to such term in Section 14.11(h).

“Pre-Completion Distribution Release Test Certificates” means certificates in respect of each of Train 1 and Train 2, in each case substantially in the form attached hereto as Exhibit P-2.

“Pre-Completion Revenue Distributions” means Distributions in accordance with clause (f) of the definition of “Extraordinary Distributions”.

“Precedent Agreement” means the Precedent Agreement for Firm Natural Gas Transportation Service for the Rio Bravo Pipeline, dated as of March 2, 2020, as amended on April 8, 2022, March 23, 2023, and July 12, 2023, between Rio Bravo Pipeline Company, LLC and Rio Grande LNG Gas Supply LLC.

“Prime Rate” means the rate of interest per annum publicly announced from time to time by the Person acting as the TCF Administrative Agent as its prime rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The TCF Administrative Agent or Senior Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of such change.

“Principal Payment Date” means the Initial Principal Payment Date and each Quarterly Payment Date thereafter.

"Prudent Industry Practice" means, at a particular time, any of the practices, methods, standards and procedures (including those engaged in or approved by a material portion of the LNG industry) that, at that time, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, including due consideration of the Project's reliability, environmental compliance, economy, safety and expedition, and which practices, methods, standards and acts generally conform to International LNG Terminal Standards and International LNG Tanker Standards.

"PUCT" has the meaning assigned to such term in the Definitions Agreement.

"PUHCA" has the meaning assigned to such term in the Definitions Agreement.

"PURA" has the meaning assigned to such term in Section 6.16(c).

"Qualified Energy Company" means, to the extent satisfying the KYC Requirements, a Person: (a) (i) that is, owns, or is Controlled by, or whose ultimate parent company is, (A) an international reputable oil and gas or LNG company (integrated or non-integrated) substantially involved in the exploration, development, production or marketing of hydrocarbons, (B) a power company or utility that has not less than 5000 megawatts of power generation assets under ownership, management and operation of which at least 2500 megawatts are attributable to gas-fired power generation assets, or (C) a utility or trading company, a substantial portion of whose business involves the ownership, transportation, liquefaction, regasification or purchase, sale or trading of gas or LNG, (ii) with a tangible net worth of no less than \$5,000,000,000, and (iii) that is not, or whose ultimate parent company is not, an Affiliate of any Government Authority; or (b) that is, or is an Affiliate of the Sponsor or any Approved Owner.

"Qualified Investment Entities" means, to the extent satisfying the KYC Requirements, any Person that is managed or advised by a Qualified Investment House or its Related Entities; where (i) "advised" means being in receipt of implementing advice in relation to the management of investments of a person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant Person and (ii) "Related Entities" means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under direct or indirect common Control with such Person.

"Qualified Investment House" means (a) Global Infrastructure Management, LLC or (b) any other investment manager who (i) has aggregate assets under management and committed capital in excess of \$10,000,000,000 and (ii) has satisfied the KYC Requirements.

"Qualified Offtake Agreement" means the Initial Offtake Agreements and any other Offtake Agreement that meets each of the following conditions: (a) such Offtake Agreement is entered into for a Qualified Term with a Qualified Offtaker, (b) such Offtake Agreement provides for the delivery of LNG on an FOB or Delivered basis, (c) the Borrower has delivered to the TCF Administrative Agent notice of the proposed terms of such Offtake Agreement and such terms (other than as specified in the foregoing clauses (a) and (b)) are consistent, in all material respects with (or not materially less favorable in the aggregate to the interests of the Borrower than) those set forth in any of Qualified Offtake Agreements then in effect, and (d) the execution of such Qualified Offtake Agreement and performance by the Borrower of its obligations under such Qualified Offtake Agreement shall not result in a breach of any Qualified Offtake Agreement then in effect, or any Required Export Authorization then in-effect and any additional

Required Export Authorizations that are necessary in connection with the execution of such Offtake Agreement.

“Qualified Offtaker” means, to the extent satisfying the Senior Lenders’ KYC Requirements,

- (a) (i) any Initial Offtaker so long as, either (A) such Initial Offtaker is not required to provide credit support on the Closing Date in respect of its obligations under the Initial Offtake Agreement to which it is a party or (B) such Initial Offtaker has entered into the applicable Credit Agreement Designated Offtake Agreement after the Closing Date that provides for credit support requirements that are either substantially similar to those included in the applicable Initial Offtake Agreement or more favorable to the Borrower and (ii) any entity that, as of the Closing Date, provides a guaranty in respect of an Initial Offtaker’s obligations under the Initial Offtake Agreement to which it is a party;
- (b) any offtaker under any Offtake Agreement which, as of the date it enters into the applicable Credit Agreement Designated Offtake Agreement (or, if later, the date on which the applicable Offtake Agreement is designated as a Credit Agreement Designated Offtake Agreement pursuant to Section 8.5, as applicable), is, or whose obligations under such Credit Agreement Designated Offtake Agreement are guaranteed by an entity that is, Investment Grade;
- (c) any offtaker under any Offtake Agreement that has provided one or more (x) guarantees from a guarantor that is Investment Grade and/or (y) letters of credit issued by a Qualifying LC Issuer, that are each issued for the benefit of the Borrower in respect of its obligations under its applicable Offtake Agreement, in the case of clauses (x) and/or (y), in an amount (in the aggregate) equal to the greater of:
 - (i) 50% of the present value of the Contracted Revenues from the applicable Credit Agreement Designated Offtake Agreement during the remaining Qualified Term of such Credit Agreement Designated Offtake Agreement; and
 - (ii) 100% of the present value of the Contracted Revenues from the applicable Credit Agreement Designated Offtake Agreement during the lesser of (A) the succeeding seven years under such Credit Agreement Designated Offtake Agreement and (B) the remaining term of such Credit Agreement Designated Offtake Agreement;
- (d) in respect of Qualified Offtake Agreements for volumes not in excess of 2.0 MTPA in the aggregate or 1.0 MTPA per Qualified Offtake Agreement, any of Vitol Inc., Glencore Ltd., Trafigura Pte Ltd, and Petrobras Global Trading B.V.; and
- (e) so long as the Borrower has other Credit Agreement Designated Offtake Agreements for at least 12.25 MTPA of ACQ with an offtaker that satisfies the criteria set forth in any of clauses (a) – (c) above, any offtaker that has, or whose obligations under the applicable Credit Agreement Designated Offtake Agreement are guaranteed by an entity that has, a tangible net worth of at least \$3,000,000,000 per 1.0 MTPA of ACQ.

“Qualified Offtaker Investors” means (a) any Initial Offtaker that is not required to provide credit support on the Closing Date in respect of its obligations under the Initial Offtake Agreement to which is a party, (b) any entity that, as of the Closing Date, provides a guaranty in respect of an Initial Offtaker’s obligations under the Initial Offtake Agreement to which such Initial Offtaker is a party, (c) any entity that provides a guaranty as contemplated by clause (b) or clause (c) of the definition of “Qualified Offtaker”, (d) any entity referred to in clause (d) or clause (e) of the definition of “Qualified Offtaker”, and (e) to the extent satisfying the Senior Lenders’ KYC Requirements, any entity that Controls any of the foregoing.

“Qualified Public Company” means any publicly listed indirect parent of the Borrower following a Qualified Public Offering, so long as following such Qualified Public Offering, no person (other than such entity, the Sponsor, the Approved Owners, Qualified Investment Entities, Qualified Offtaker Investors, Qualified Energy Companies, such publicly listed parent company following such Qualified Public Offering or any underwriter or placement agent participating in such Qualified Public Offering) or persons constituting a “group” (within the meaning of Section 13(d) of the Securities Exchange Act of 1934 or any successor provision) (excluding employee benefit plans of the Borrower or any of its Affiliates and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the beneficial owner, directly or indirectly, of more than 50% of the economic interests in the Borrower and, directly or indirectly, Controls the Borrower.

“Qualified Public Offering” means any public offering of the Sponsor or its Affiliates with any indirect ownership interest in the Borrower or any direct or indirect shareholder of the Borrower.

“Qualified Term” means (a) with respect to any Credit Agreement Designated Offtake Agreement other than a replacement Credit Agreement Designated Offtake Agreement, the term of such Offtake Agreement used in the Base Case Forecast when determining the applicable quantum of Senior Secured Debt that could be incurred based on the revenues projected to be generated under such **Credit Agreement Designated** Offtake Agreement and (b) with respect to one or more **Credit Agreement Designated** Offtake Agreements entered into to replace any terminated Credit Agreement Designated Offtake Agreement, (i) a term at least as long, taken as a whole, as the remaining term of the terminated Credit Agreement Designated Offtake Agreement that such Offtake Agreement(s) are replacing or (ii) the term for such replacement **Credit Agreement Designated** Offtake Agreement(s) used in the Base Case Forecast to calculate the quantum of Senior Secured Debt required to be prepaid pursuant to Section 4.10(b) as a result of the terminated Credit Agreement Designated Offtake Agreement and entry into such replacement **Credit Agreement Designated** Offtake Agreement(s).

“Qualifying LC Issuer” has the meaning assigned to such term in the P1 Accounts Agreement.

“Real Estate” means all real property leases and all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Person, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

“Real Property Interests” means, collectively, the Borrower’s subleasehold interest under the P1 Sublease and the Easements granted to the Borrower under the Facility Easement Agreements.

“Recipient” means (a) the TCF Administrative Agent, or (b) any Senior Lender, as applicable.

“Register” has the meaning assigned to such term in Section 2.10(d).

“Regulation T”, “Regulation U”, and “Regulation X” means, respectively, Regulation T, Regulation U, and Regulation X of the Board of Governors of the Federal Reserve System.

“Reinstatement Debt” means Relevering Debt that satisfies (a) the conditions set forth in Section 2.5 ~~Relevering Debt~~ of the Common Terms Agreement and (b) the following conditions:

- (i) any LNG Sales Mandatory Prepayment Event has occurred;
- (ii) such LNG Sales Mandatory Prepayment Event shall have been cured pursuant to each applicable Senior Secured Debt Instrument;
- (iii) such Reinstatement Debt is incurred no later than two years after all applicable LNG Sales Mandatory Prepayments in respect of such LNG Sales Mandatory Prepayment Event have been made pursuant to the applicable Senior Secured Debt Instruments;
- (iv) the principal amount of such Reinstatement Debt does not exceed: (A) the amount of such LNG Sales Mandatory Prepayment, *plus* (B) all premiums, fees, costs, expenses and reserves (including any incremental increase in the DSRA Reserve Amounts resulting from the incurrence of such Reinstatement Debt) associated with arranging, issuing and incurring such Reinstatement Debt, *plus* (C) 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;
- (v) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that all Senior Secured Debt (after taking into account the incurrence of such Reinstatement Debt) outstanding at such time is capable of amortization such that the Credit Agreement Projected DSCR commencing on the ~~Initial~~ **first** Principal Payment Date **after the incurrence of the Reinstatement Debt** and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the expiration of the term of the Notional Amortization Period shall not be less than 1.45:1.00; provided, that for purposes of this clause (v) the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume, if such Reinstatement Debt is incurred prior to the Term Conversion Date, that all Senior Secured Debt Commitments will be fully drawn; and
- (vi) concurrently with the incurrence of any Reinstatement Debt, the Borrower shall apply the proceeds of such Reinstatement Debt in the following order: (A) *first*, to pay all premiums, fees, costs, expenses and reserves (including any incremental increase in the DSRA Reserve Amount resulting from the incurrence of such Reinstatement Debt) associated with arranging, issuing, and incurring such Reinstatement Debt; (B) *second*, to fund any reserves (including any incremental increase in the DSRA Reserve Amount) resulting from the incurrence of such Reinstatement Debt; (C) *third*, to (1) pay any P1 IR Hedge Termination Amount that is or will be due and payable with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence or

(2) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence; and (D) *fourth*, to make Distributions to the Pledgor.

“Related Entity” means, with respect to any Person, any other person directly or indirectly Controlling, Controlled by or under direct or indirect common Control with such Person.

“Relevant Governmental Body” means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

“Replacement Debt Commitment Reduction Notice” has the meaning assigned to such term in Section 2.4(c).

“Replacement Debt Prepayment Notice” has the meaning assigned to such term in Section 4.10(f).

“Required EPC Change Order” means a Change Order under the P1 EPC Contracts that is triggered as a result of an event described in Section 6.2A (*Change Orders Requested by Contractor*) of the P1 EPC Contracts (excluding only the event described in Section 6.2A.1 of the P1 EPC Contracts).

“Required Export Authorizations” means, with respect to each Credit Agreement Designated Offtake Agreement at any time, the DOE Export Authorization and any other export authorization that the Borrower designates as a “Required Export Authorization” in connection with the entry into, or designation of, a Credit Agreement Designated Offtake Agreement, in each case, to the extent that, at such time, the volumes permitted to be exported under the DOE Export Authorization or such export authorization, as the case may be, are required in order to enable the sale of such Credit Agreement Designated Offtake Agreement’s share of the then-applicable Base Committed Quantity of LNG in accordance with the terms of such Credit Agreement Designated Offtake Agreement.

“Required LNG Tanker Capacity” means, at any time, the LNG Tanker capacity required to ship the aggregate volume of LNG subject to delivery obligations at such time pursuant to Credit Agreement Designated Offtake Agreements that are on Delivered terms, which may be provided by one or more Time Charter Party Agreements.

“Reserved Matters” means any proposed amendment, modification, or waiver in order to:

- (a) extend or increase any Construction/Term Loan Commitment (including, without limitation, pursuant to Section 2.11);
- (b) extend the maturity date or postpone any date scheduled for any payment of principal, fees or interest (as applicable) under Section 4.1, Section 4.3, Section 4.10, or Section 4.13 or any date fixed by the TCF Administrative Agent for the payment of fees or other amounts due to the Senior Lenders (or any of them) hereunder (including, without limitation, pursuant to Section 2.11);

- (c) approve any change in the amount, or any change in the timing or method of calculation of, any payment of principal or interest or other amount owing by the Borrower under the Bank Financing Documents;
- (d) change any provision of Section 14.1, the definition of Majority Senior Lenders, Supermajority Senior Lenders, Unanimous Decision, or any other provision hereof specifying the number or percentage of Senior Lenders required to amend, waive, terminate or otherwise modify any rights hereunder or make any determination or grant any consent hereunder;
- (e) amend, modify, waive, or supplement the terms of Section 14.4;
- (f) change the definition of Total Holdings, Reserved Matters and/or Eligible Assignee; and
- (g) change the currency of payment of any amount under the Bank Finance Documents to which the Borrower is a party in so far as such change impacts on the currency of payments in respect of the Obligations.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Restoration Plan” has the meaning assigned to such term in the Definitions Agreement.

“Restoration Work” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Restricted Document” has the meaning assigned to such term in Section 14.17.

“Restricted Lender” has the meaning assigned to such term in Section 14.28.

“Restricted Person” means a Person that is: (a) the target of Sanctions Regulations; (b) a Canada Blocked Person; (c) a Person listed on, or acting on behalf of a Person listed on, any Sanctions List; (d) a Person located, organized, or ordinarily resident in a country, territory, or region that is, or whose government is, the target of country-wide or territory-wide comprehensive Sanctions Regulations (as of the date of this Agreement, Cuba, Iran, North Korea, Syria, the Crimea, Kherson, and Zaporizhzhia regions of Ukraine, the so-called Donetsk People’s Republic, and the so-called Luhansk People’s Republic) but excluding, for the elimination of doubt, the United States; or (e) a Person owned more than 50% by or otherwise controlled by a Person or Persons, country, territory, or region in clauses (a) through (d).

~~**“Revocation”** means, with respect to any DOE Export Authorization: (a) the rescission, revocation, staying, withdrawal, early termination, cancellation, repeal or invalidity thereof or otherwise ceasing to be in full force and effect, in whole or in part; (b) the suspension or injunction thereof, in whole or in part; (c) the inability to satisfy in a timely manner stated conditions to effectiveness thereto; or (d) any amendment, modification or supplementation thereof in whole or in part, the effect of which is to reduce any quantity of LNG thereunder or the term thereof or adversely modify the date of the commencement of the term thereof. The verb “Revoke” shall have a correlative meaning.~~

“RG Facility Entity Permitted Liens” means Liens permitted pursuant to clauses (b)-(g) of the definition of Permitted Liens in the Definitions Agreement (and with respect to clause (e) of the

definition thereof, only to the extent such Liens are with respect to Indebtedness permitted pursuant to Section 9.12(h)).

“Rio Bravo Pipeline” means the natural gas pipeline and related infrastructure referred to in the Precedent Agreement as the “Project” and each Pipeline (as defined in the Precedent Agreement) comprising the Project.

“Sanctioned Country” means, at any time, a country or territory that is itself the target of comprehensive Sanctions Regulations (as of the date of this Agreement, Cuba, Iran, Syria, North Korea, Crimea, the so-called Donetsk People’s Republic, and the so-called Luhansk People’s Republic).

“Sanctions Authorities” means (a) the United States, (b) the United Nations (acting through the United Nations Security Council as a whole and not each individual member or member state), (c) the European Union (as a whole and not each member state), (d) the United Kingdom, (e) Canada, (f) Germany, or (g) the respective governmental institutions and agencies of any of the foregoing, including OFAC, the United States Department of State, and HMT.

“Sanctions List” means the OFAC SDN List, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of sanctions designation under Sanctions Regulations made by, any of the Sanctions Authorities but excluding, in all cases, to the extent such list is made by any Sanctions Authority and targeted against the United States or Persons in or connected to the United States.

“Sanctions Regulations” means the applicable economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the Sanctions Authorities, including the OFAC Laws but excluding, in all cases, to the extent administered, enacted or enforced by any other Sanctions Authority against the United States.

“Sanctions Violation” has the meaning assigned to such term in Section 8.7(d).

“Senior Lenders” means those Senior Lenders identified on Schedule 2 and each other Person that acquires the rights and obligations of any such Senior Lender pursuant to Section 14.4(b).

“Senior Secured Hedge Agreements” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured IR Hedge Agreements” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured IR Hedge Counterparties” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“SOFR” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SOFR Determination Day” has the meaning specified in the definition of “Daily Compounded SOFR”.

“SOFR Loans” means Construction/Term Loans bearing interest based upon Daily Compounded SOFR, other than pursuant to clause (c) of the definition of “Base Rate”.

“SOFR Rate Day” has the meaning specified in the definition of “Daily Compounded SOFR”.

“Solvent” means, with respect to any Person as of the date of any determination, that on such date:

- (a) the fair valuation of the property of such Person is greater than the total liabilities, including contingent liabilities, of such Person;
- (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured;
- (c) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations, and other commitments as they mature in the normal course of business;
- (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature; and
- (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute unreasonably small capital after giving due consideration to current and anticipated future business conduct.

In computing the amount of contingent liabilities at any time, such liabilities shall be computed at the amount which, in light of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Special Flood Hazard Area” means an area having special flood hazards as described in the National Flood Insurance Act of 1968.

“Specified Senior Lender” means each Senior Lender that, as of the date of determination, holds an aggregate amount of unfunded Construction/Term Loan Commitments and outstanding Construction/Term Loans in an amount less than \$300,000,000.

“Sub-Charter Agreement” has the meaning assigned to such term in Section 8.10(e).

“Subsequent Train Facility” has the meaning assigned to such term in the Definitions Agreement.

“Supermajority Senior Lenders” means at any time, the Senior Lenders holding in excess of 66.66% of the sum of (a) the aggregate undisbursed Construction/Term Loan Commitments *plus* (b) the then aggregate outstanding principal amount of the Construction/Term Loans (excluding in each such case any Senior Lender that is a Defaulting Lender, a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender (but not excluding, in

each of the foregoing cases, Total Holdings in its capacity as a Senior Lender), and each Construction/Term Loan Commitment and any outstanding principal amount of any Construction/Term Loan of any such Senior Lender).

“Support Agreements” means, collectively, each support agreement between any Senior Lender and Total Holdings.

“Survey” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Syndication Agent” means MUFG Bank, Ltd., not in its individual capacity, but as the syndication agent hereunder.

“TCF Administrative Agent” means MUFG Bank, Ltd., not in its individual capacity, but solely as TCF Administrative Agent for the Construction/Term Loans hereunder, and each other Person that may, from time to time, be appointed as successor TCF Administrative Agent pursuant to Section 13.7.

“TCF Administrative Agent Fee Letter” means the Fee Letter dated as of July 12, 2023, between the Borrower and the TCF Administrative Agent.

“TCF Financing Documents” means (a) each of the documents set forth in the definition of “P1 Financing Documents” in the Common Terms Agreement and (b) the Bank Financing Documents. Section 1.2(d) applies to the definition of TCF Financing Document, as used in any other TCF Financing Document.

“TCF Pre-Completion Distribution Release Conditions” means the satisfaction or waiver of each of the following conditions:

- (a) T1 Substantial Completion and T2 Substantial Completion shall have occurred;
- (b) the TCF Administrative Agent shall have received executed copies of the Pre-Completion Distribution Release Test Certificates for each of Train 1 and Train 2;
- (c) the Credit Agreement Projected DSCR for the four Fiscal Quarter period commencing on the projected Initial Principal Payment Date shall not be less than 1.40:1.00;
- (d) the Borrower shall have delivered to the TCF Administrative Agent a certificate confirming (i) that T3 Substantial Completion and the occurrence of the Term Conversion Date is reasonably expected to occur on or before the Date Certain and (ii) the sufficiency of funds to complete T3 Substantial Completion, in each case as confirmed by the Independent Engineer;
- (e) each Credit Agreement Designated Offtake Agreement is in full force and effect;
- (f) the “Date of First Commercial Delivery” under and as defined in each of the Initial Offtake Agreements referred to in clauses (b), (c), (d), (f) and (h) of the definition thereof, has occurred; and
- (g) no actual LNG Sales Mandatory Prepayment Event or Unmatured LNG Sales Mandatory Prepayment Event has occurred and is continuing as of the date of the proposed Distribution.

“TCF Senior Loan DSRA” has the meaning assigned to such term in the P1 Accounts Agreement.

“Term Conversion Date” means date on which the satisfaction of the conditions set forth in Section 7.6 of this Agreement are satisfied (or waived by TCF Administrative Agent, with the consent of the Majority Senior Lenders).

“Term Conversion Date Drawing” has the meaning assigned to such term in Section 2.1(d).

“Termination Payments” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Total Holdings” has the meaning assigned to such term in the Preamble.

“Trade Date” has the meaning assigned to such term in Section 14.4(j)(i).

“Train 1” has the meaning assigned to such term in the T1/T2 EPC Contract.

“Train 2” has the meaning assigned to such term in the T1/T2 EPC Contract.

“Train 3” has the meaning assigned to such term in the T3 EPC Contract.

“Train Facility” has the meaning assigned to such term in the Definitions Agreement.

“Train Facility Sublease” has the meaning assigned to such term in the Definitions Agreement.

“Tranche” as the context may require, means Tranche A and Tranche B.

“Tranche A” has the meaning assigned to such term in Section 2.1(f).

“Tranche B” has the meaning assigned to such term in Section 2.1(f).

“Tug Services Agreement” means that certain First Amended and Restated Tug Services Agreement, dated as of June 28, 2023, between CFCo and Gulf LNG Tugs of Brownsville, LLC.

“Type”, when used in reference to any Construction/Term Loan or Construction/Term Loan Borrowing, refers to whether the rate of interest on such Construction/Term Loan, or on the Construction/Term Loans comprising such Construction/Term Loan Borrowing, is determined by reference to Daily Compounded SOFR or the Base Rate.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday, or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“U.S. Person” means a “United States person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 5.6(g).

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as

amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unanimous Decision” means, in respect of Modifications, Consents and Waivers of and under P1 Collateral Documents, (a) reducing the percentage or other voting thresholds specified in respect of matters requiring approval of the Senior Secured Parties; (b) changing or otherwise adversely impacting the priority of the Liens over the Collateral (except as allowed under the TCF Financing Documents); (c) changing the provisions of the TCF Financing Documents providing for the *pari passu* ranking of the Senior Secured Debt; (d) amending or waiving Article III *(The P1 Accounts)* of the P1 Accounts Agreement; (e) amending this definition of Unanimous Decision; (f) releasing all or any material portion of the Collateral from the Lien of any of the Senior Security Documents (other than (x) upon the sale, conveyance, lease, transfer or other disposal of assets that do not constitute all or substantially all of the assets of the Borrower or (y) the termination, assignment, or other disposition of Material Project Documents in accordance with the TCF Financing Documents or otherwise upon Majority Senior Lender approval); and (g) modifying any of the following provisions of the Collateral and Intercreditor Agreement: Section 9.7 (*Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*), Section 9.8 (*Application of Collateral Proceeds to the Senior Secured Obligations Following an Enforcement Action*), and Article 10 (*Application of Replacement Debt to the Senior Secured Obligations*).

“Unmatured LNG Sales Mandatory Prepayment Event” means an event that, with the lapse of a cure period, would become an LNG Sales Mandatory Prepayment Event.

“Upfront Fee Letter” means the Fee Letter dated as of July 12, 2023, between the Borrower and MUFG Bank, Ltd.

“Waiver” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Withdrawal Certificate” has the meaning assigned to such term in the P1 Accounts Agreement.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means the Borrower, the TCF Administrative Agent and the P1 Collateral Agent.

“Work” has the meaning assigned to such term in the P1 EPC Contracts.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with

respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

AMENDMENT NO. 1 TO COMMON TERMS AGREEMENT

This AMENDMENT NO. 1 TO COMMON TERMS AGREEMENT (this "Amendment"), dated as of November 2, 2023, amends that certain Common Terms Agreement, dated as of July 12, 2023 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Common Terms Agreement" and, as it may be further amended, amended and restated, supplemented or otherwise modified from time to time, the "CommonTerms Agreement") by and among RIO GRANDE LNG, LLC, a limited liability company formed under the laws of the State of Texas (the "Borrower"), the Senior Secured Debt Holder Representatives party thereto from time to time, and MUFG BANK, LTD., in its capacity as the P1 Intercreditor Agent (the "P1 Intercreditor Agent").

WHEREAS, the Required Senior Secured Debt Holders (in accordance with Section 6.3 (*Modifications, Consents and Waivers of and under the Common Terms Agreement*) of the Collateral and Intercreditor Agreement) and the Borrower desire to amend the Common Terms Agreement in the manner set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and the agreements and undertakings set forth herein, the parties to this Amendment agree as follows:

Section 1. Definitions; Principles of Interpretation.

Capitalized terms used, but not otherwise defined, in this Amendment shall have the respective meanings given to them in the Common Terms Agreement. The principles of interpretation and construction applicable to the Common Terms Agreement pursuant to Section 1.2 (*Interpretation*) of the Common Terms Agreement shall apply to this Amendment, *mutatis mutandis*.

Section 2. Amendments to Common Terms Agreement.

Effective as of the Amendment Effective Date (as defined below) the Existing Common Terms Agreement is hereby amended to delete the stricken text (indicated in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated in the same manner as the following example: double-underlined text) as set forth on Exhibit A attached hereto; and

Section 3. Effectiveness of Amendments.

The amendments set forth in Section 2 shall be effective upon the date (the "Amendment Effective Date") on which the P1 Intercreditor Agent has received duly executed counterparts of this Amendment from the Borrower and the P1 Intercreditor Agent.

Section 4. Representations and Warranties.

The Borrower represents and warrants for the benefit of the P1 Intercreditor Agent and the Senior Secured Creditor Representatives that:

(a) no Default or Event of Default has occurred and is continuing or will occur upon giving effect to the transactions and agreements contemplated under this Amendment;

(b) the Borrower has the power and authority to execute and deliver, and to perform its obligations under this Amendment and the execution, delivery, and performance of its obligations under this Amendment do not conflict with its Organic Documents; and

(c) this Amendment has been duly executed by the Borrower and (assuming the due execution and delivery by the counterparties hereto) constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

Section 5. Limited Effect on Common Terms Agreement and P1 Financing Documents.

(a) Except as expressly provided for herein, the terms and conditions of the Existing Common Terms Agreement shall continue unchanged and shall remain in full force and effect. The amendment agreed to herein shall apply solely to the matters set forth herein and such amendment shall not be deemed or construed as a consent to or an amendment of any other matters.

(b) This Amendment shall constitute a P1 Financing Document. Upon the effectiveness hereof, each reference to the Common Terms Agreement in the Common Terms Agreement or in any other P1 Financing Document shall mean and be a reference to the Common Terms Agreement as amended hereby (and as it may be further amended, amended and restated, supplemented or otherwise modified from time to time).

(c) Neither the execution and delivery of this Amendment nor any of the terms, covenants, conditions or other provisions set forth herein are intended, nor shall they be deemed or construed, to effect a novation of any Liens or Senior Secured Obligations under the Common Terms Agreement or to pay, extinguish, release, satisfy or discharge (i) the Senior Secured Obligations under the Common Terms Agreement, (ii) the liability of the Borrower under the Common Terms Agreement or the other P1 Financing Documents or any Senior Secured Obligations or other obligations evidenced thereby, or (iii) any mortgages, deeds of trust, liens, security interests or contractual or legal rights securing all or any part of such Senior Secured Obligations.

(d) Borrower hereby (i) agrees that this Amendment and the transactions contemplated hereby shall not limit or diminish the Borrower's obligations arising under or pursuant to the P1 Financing Documents to which it is a party, (ii) reaffirms all of the Borrower's obligations under the Common Terms Agreement and the other P1 Financing Documents to which it is a party, and (iii) acknowledges and agrees that the Common Terms Agreement and each other P1 Financing Document executed by each Loan Party remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

Section 6. Severability.

If any provision of this Amendment is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. GOVERNING LAW.

THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.

Section 8. Binding Nature and Benefit.

This Amendment shall be binding upon and inure to the benefit of each party hereto and their respective successors and permitted assigns.

Section 9. Counterparts.

This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Amendment shall become effective when it has been executed by the P1 Intercreditor Agent and when the P1 Intercreditor Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart

of a signature page of this Amendment by facsimile or portable document format (“pdf”) shall be effective as delivery of a manually executed counterpart of this Amendment. The words “execution,” “signed,” “signature,” and words of like import in this Amendment shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

RIO GRANDE LNG, LLC

as the Borrower

By: /s/ Graham McArthur
Name: Graham McArthur
Title: Senior Vice President and
Treasurer

[Signature Page to Amendment No. 1 to Common Terms Agreement]

MUFG BANK, LTD.,
as the P1 Intercreditor Agent

By: /s/ Lawrence Blat
Name: Lawrence Blat
Title: Authorized Signatory

[Signature Page to Amendment No. 1 to Common Terms Agreement]

EXHIBIT A

Conformed Copy of Amended Common Terms Agreement

[Attached]

AMENDMENT NO. 2 TO COMMON TERMS AGREEMENT

This AMENDMENT NO. 2 TO COMMON TERMS AGREEMENT (this "Amendment"), dated as of December 28, 2023, amends that certain Common Terms Agreement, dated as of July 12, 2023, as amended by that certain Amendment No. 1 to Common Terms Agreement, dated as of November 2, 2023 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Common Terms Agreement" and, as it may be further amended, amended and restated, supplemented or otherwise modified from time to time, the "Common Terms Agreement") by and among RIO GRANDE LNG, LLC, a limited liability company formed under the laws of the State of Texas (the "Borrower"), the Senior Secured Debt Holder Representatives party thereto from time to time, and MUFG BANK, LTD., in its capacity as the P1 Intercreditor Agent (the "P1 Intercreditor Agent").

WHEREAS, the Required Senior Secured Debt Holders (in accordance with Section 6.3 (*Modifications, Consents and Waivers of and under the Common Terms Agreement*) of the Collateral and Intercreditor Agreement) and the Borrower desire to amend the Common Terms Agreement in the manner set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and the agreements and undertakings set forth herein, the parties to this Amendment agree as follows:

Section 1. Definitions: Principles of Interpretation.

Capitalized terms used, but not otherwise defined, in this Amendment shall have the respective meanings given to them in the Common Terms Agreement. The principles of interpretation and construction applicable to the Common Terms Agreement pursuant to Section 1.2 (*Interpretation*) of the Common Terms Agreement shall apply to this Amendment, *mutatis mutandis*.

Section 2. Amendments to Common Terms Agreement.

Effective as of the Amendment Effective Date (as defined below) the Existing Common Terms Agreement is hereby amended to delete the stricken text (indicated in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated in the same manner as the following example: double-underlined text) as set forth on Exhibit A attached hereto; and

Section 3. Effectiveness of Amendments.

The amendments set forth in Section 2 shall be effective upon the date (the "Amendment Effective Date") on which the P1 Intercreditor Agent has received duly executed counterparts of this Amendment from the Borrower and the P1 Intercreditor Agent.

Section 4. Representations and Warranties.

The Borrower represents and warrants for the benefit of the P1 Intercreditor Agent and the Senior Secured Creditor Representatives that:

(a) no Default or Event of Default has occurred and is continuing or will occur upon giving effect to the transactions and agreements contemplated under this Amendment;

(b) the Borrower has the power and authority to execute and deliver, and to perform its obligations under this Amendment and the execution, delivery, and performance of its obligations under this Amendment do not conflict with its Organic Documents; and

(c) this Amendment has been duly executed by the Borrower and (assuming the due execution and delivery by the counterparties hereto) constitutes the legal, valid, and binding obligation of

the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency and similar laws.

Section 5. Limited Effect on Common Terms Agreement and P1 Financing Documents.

(a) Except as expressly provided for herein, the terms and conditions of the Existing Common Terms Agreement shall continue unchanged and shall remain in full force and effect. The amendment agreed to herein shall apply solely to the matters set forth herein and such amendment shall not be deemed or construed as a consent to or an amendment of any other matters.

(b) This Amendment shall constitute a P1 Financing Document. Upon the effectiveness hereof, each reference to the Common Terms Agreement in the Common Terms Agreement or in any other P1 Financing Document shall mean and be a reference to the Common Terms Agreement as amended hereby (and as it may be further amended, amended and restated, supplemented or otherwise modified from time to time).

(c) Neither the execution and delivery of this Amendment nor any of the terms, covenants, conditions or other provisions set forth herein are intended, nor shall they be deemed or construed, to effect a novation of any Liens or Senior Secured Obligations under the Common Terms Agreement or to pay, extinguish, release, satisfy or discharge (i) the Senior Secured Obligations under the Common Terms Agreement, (ii) the liability of the Borrower under the Common Terms Agreement or the other P1 Financing Documents or any Senior Secured Obligations or other obligations evidenced thereby, or (iii) any mortgages, deeds of trust, liens, security interests or contractual or legal rights securing all or any part of such Senior Secured Obligations.

(d) Borrower hereby (i) agrees that this Amendment and the transactions contemplated hereby shall not limit or diminish the Borrower's obligations arising under or pursuant to the P1 Financing Documents to which it is a party, (ii) reaffirms all of the Borrower's obligations under the Common Terms Agreement and the other P1 Financing Documents to which it is a party, and (iii) acknowledges and agrees that the Common Terms Agreement and each other P1 Financing Document executed by each Loan Party remains in full force and effect and is hereby reaffirmed, ratified and confirmed.

Section 6. Severability.

If any provision of this Amendment is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. GOVERNING LAW.

THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.

Section 8. Binding Nature and Benefit.

This Amendment shall be binding upon and inure to the benefit of each party hereto and their respective successors and permitted assigns.

Section 9. Counterparts.

This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall

constitute a single contract. This Amendment shall become effective when it has been executed by the P1 Intercreditor Agent and when the P1 Intercreditor Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or portable document format ("pdf") shall be effective as delivery of a manually executed counterpart of this Amendment. The words "execution," "signed," "signature," and words of like import in this Amendment shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

RIO GRANDE LNG, LLC

as the Borrower

By: /s/ Graham McArthur
Name: Graham McArthur
Title: Senior Vice President and
Treasurer

[Signature Page to Amendment No. 2 to Common Terms Agreement]

MUFG BANK, LTD.,
as the P1 Intercreditor Agent

By: /s/ Lawrence Blat
Name: Lawrence Blat
Title: Authorized Signatory

[Signature Page to Amendment No. 2 to Common Terms Agreement]

EXHIBIT A

Conformed Copy of Amended Common Terms Agreement

[Attached]

Annex I to

Omnibus Amendment No. 2

Conformed to include:

Amendment No. 1, dated as of November 2, 2023

Amendment No. 2, dated as of December 28, 2023

COMMON TERMS AGREEMENT

dated as of July 12, 2023

among

RIO GRANDE LNG, LLC,
as the Borrower,

THE SENIOR SECURED DEBT HOLDER REPRESENTATIVES
that are parties to this Agreement from time to time,

and

MUFG BANK, LTD.,
as the P1 Intercreditor Agent

TABLE OF CONTENTS

	Page
1. DEFINITIONS AND INTERPRETATION	1
1.1 Definitions	1
1.2 Interpretation	1
1.3 UCC Terms	2
1.4 Accounting and Financial Determinations	3
1.5 Divisions	3
2. SENIOR SECURED DEBT	3
2.1 Incurrence of Senior Secured Debt	3
2.2 Closing Date Senior Secured Debt	3
2.3 Working Capital Debt	4
2.4 Replacement Debt	5
2.5 Relevering Debt	6
2.6 Supplemental Debt	7
2.7 Accession Agreements	8
2.8 Transfers and Holding of Senior Secured Obligations	9
2.9 Payment in Full of Senior Secured Debt	9
3. REPRESENTATIONS AND WARRANTIES	10
3.1 General	10
3.2 Existence	10
3.3 Action	10
3.4 No Breach	10
4. AFFIRMATIVE COVENANTS	11
4.1 Maintenance of Existence, Etc.	11
4.2 RG Facility Entities	11
4.3 Separateness	11
4.4 Compliance with Material Project Documents	11
4.5 Compliance with Material Government Approvals	11
4.6 Compliance with Government Rules	11
4.7 Project Construction	11
4.8 Taxes	12
4.9 Interest Rate Hedging	12
4.10 Auditors	12
4.11 Access; Inspection	12
5. NEGATIVE COVENANTS	13
5.1 Business Activities	13
5.2 Fundamental Changes	13
5.3 Asset Sales	13
5.4 Restrictions on Indebtedness	14

	Page
5.5 Guarantees	15
5.6 Convertible Equity Interests	15
5.7 Hedging Arrangements	15
5.8 Limitation on Liens	15
5.9 Permitted Investments	15
5.10 Distributions	15
5.11 Transactions with Affiliates	16
5.12 RG Facility Entity Voting	17
5.13 Amendments to RG Facility Agreements	18
5.14 Capital Improvements	18
6. REPORTING REQUIREMENTS	18
6.1 Financial Statements	18
6.2 Notice of CTA Default, CTA Event of Default, and Other Events	19
7. EVENTS OF DEFAULT	19
7.1 Non-Payment of Senior Secured Debt	19
7.2 Cross-Acceleration	20
7.3 Breaches of Covenant	20
7.4 Breaches of Representations and Warranties	20
7.5 Bankruptcy	20
7.6 Litigation	21
7.7 Illegality or Unenforceability	21
7.8 Abandonment	22
8. MISCELLANEOUS PROVISIONS	22
8.1 Amendments; Waivers	22
8.2 Entire Agreement	22
8.3 Applicable Law; Jurisdiction; Etc.	22
8.4 Assignments	24
8.5 Successors and Assigns	24
8.6 Consultants	24
8.7 Costs and Expenses	24
8.8 Counterparts; Effectiveness	24
8.9 No Waiver; Cumulative Remedies	25
8.10 Indemnification by Borrower	25
8.11 Notices and Other Communication	27
8.12 Severability	28
8.13 Survival	28
8.14 Waiver of Consequential Damages, Etc.	28
8.15 Reinstatement	29
8.16 Treatment of Certain Information; Confidentiality	29

8.17	No Recourse	Page	30
8.18	Acknowledgment Regarding Any Supported QFCs		30

APPENDICES

Appendix I	-	Definitions

SCHEDULES

Schedule 2.7	-	Senior Secured Debt Commitments
Schedule 4.3	-	Separateness
Schedule 8.11	-	Notice Information
Schedule X	-	Knowledge
Schedule Y	-	Site
Schedule Z	-	AEP Land

EXHIBITS

Exhibit A	-	Form of Senior Secured Debt Holder Representative Accession Agreement
Exhibit B	-	Form of Transfer Accession Agreement
Exhibit C	-	Form of Officer's Certificate (Working Capital Debt)
Exhibit D	-	Form of Officer's Certificate (Replacement Debt)
Exhibit E	-	Form of Officer's Certificate (Relevering Debt)
Exhibit F	-	Form of Officer's Certificate (Supplemental Debt)
Exhibit G	-	Base Case Forecast

This **COMMON TERMS AGREEMENT** (this “**Agreement**”), dated as of July 12, 2023, is by and among:

- (1) **RIO GRANDE LNG, LLC**, a Texas limited liability company (the “**Borrower**”);
- (2) each **SENIOR SECURED DEBT HOLDER REPRESENTATIVE** that is a party to this Agreement from time to time in accordance with the terms of this Agreement; and
- (3) **MUFG BANK, LTD.**, as the P1 Intercreditor Agent;

each a “**Party**” and together the “**Parties**”.

WHEREAS:

- (A) the Borrower intends, among other things, (i) to own, upon the design, engineering, development, procurement, construction, installation thereof, the P1 Train Facilities, (ii) to proportionately own indirectly, upon the design, engineering, development, procurement, construction, installation thereof, certain Common Facilities at the Rio Grande Facility, (iii) to acquire directly (in respect of the P1 Train Facilities) or indirectly (in respect of the Common Facilities) subleases and easements in the land underlying and appurtenant to the Rio Grande Facility, (iv) acquire rights of usage over and in the Rio Grande Facility, (v) to cause the design, engineering, development, procurement, construction, installation, and insurance of the P1 Train Facilities and such Common Facilities, and (vi) to cause the operation and maintenance of the Rio Grande Facility, in each case and as relevant, subject to the CFAA and other Material Project Documents (the “**Project**”); and
- (B) the Borrower, the Senior Secured Debt Holder Representatives, and the P1 Intercreditor Agent desire to enter into this Agreement in order to set out certain provisions regarding, among other things: (i) common representations and warranties of the Borrower, (ii) common covenants of the Borrower, and (iii) common events of default under the Senior Secured Debt Instruments.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Except as otherwise expressly provided in this Agreement, capitalized terms used in this Agreement shall have the meanings given to them in Appendix I.

1.2 Interpretation

- (a) In this Agreement, except to the extent specified to the contrary or where the context otherwise requires:
 - (i) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement;

- (ii) references to “**Sections**”, “**Schedules**”, “**Exhibits**”, and “**Appendices**” are references to sections of, and schedules, exhibits, and appendices to, this Agreement;
 - (iii) references to “**assets**” includes property, revenues, and rights of every description (whether real, personal or mixed and whether tangible or intangible);
 - (iv) references to an “**amendment**” includes a supplement, replacement, novation, restatement, or re-enactment and “**amended**” is to be construed accordingly;
 - (v) references to any Government Rule includes any amendment or modification to such Government Rule, and all regulations, rulings and other Government Rules promulgated under such Government Rule;
 - (vi) except where a document or agreement is expressly stated to be in the form “in effect” on a particular date, references to any document or agreement, including this Agreement, shall be deemed to include references to such document or agreement as amended, from time to time in accordance with its terms and (where applicable) subject to compliance with the requirements set forth in herein;
 - (vii) references to any Party or party to any other document or agreement shall include its successors and permitted assigns;
 - (viii) words importing the singular include the plural and vice versa;
 - (ix) words importing the masculine include the feminine and vice versa;
 - (x) the words “**include**”, “**includes**”, and “**including**” are not limiting;
 - (xi) references to “**days**” shall mean calendar days, unless the term “Business Days” shall be used;
 - (xii) references to “**months**” shall mean calendar months and references to **years**” shall mean calendar years; and
 - (xiii) unless the contrary indication appears, a reference to a time of day is a reference to the time of day in New York, New York.
- (b) This Agreement is the result of negotiations among, and has been reviewed by, all parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties hereto, and no ambiguity shall be construed in favor of or against any party hereto.
- (c) Unless a contrary intention appears, a term used in any notice given under or in connection herewith has the same meaning as in this Agreement.

1.3 UCC Terms

Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the respective meanings given to those terms in the UCC.

1.4 Accounting and Financial Determinations

Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth herein, then such ratio or requirement shall be modified in a manner determined as soon as reasonably practicable and in good faith by the Borrower and set forth in a written notice to the P1 Intercreditor Agent that preserves the original intent thereof in light of such change in GAAP; provided, that (a) such modification shall not take effect until the ninetieth day following such written notice, (b) if the P1 Intercreditor Agent (at the direction of the Required Senior Secured Debt Holders) disputes in writing that such modification preserves the original intent thereof in light of such change in GAAP prior to such ninetieth day, then such modification shall not take effect until such dispute is finally settled or resolved, (c) until so modified, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the P1 Intercreditor Agent financial statements and other documents required under this Agreement setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP, and (d) upon the effectiveness of such modification, this Agreement shall be deemed amended to the extent necessary to give effect to such modification without the consent of any Party hereto.

1.5 Divisions

For all purposes under the P1 Financing Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation, or liability of any Person becomes the asset, right, obligation, or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

2. SENIOR SECURED DEBT

2.1 Incurrence of Senior Secured Debt

- (a) The incurrence of Senior Secured Debt shall be made in accordance with, and pursuant to, the terms of this Agreement and the relevant Senior Secured Debt Instruments.
- (b) For purposes of this Article 2, Senior Secured Debt shall be deemed "incurred" upon (i) the execution of the Senior Secured Debt Instruments in respect thereof ~~and the~~ **(irrespective of the** satisfaction or waiver of the conditions precedent thereunder to the initial disbursement thereof or initial issuance of letters of credit thereunder) or (ii) any subsequent Economic Terms Modification.

2.2 Closing Date Senior Secured Debt

- (a) On the Closing Date, (i) the CD Senior Lenders will make available to the Borrower the CD Senior Loans pursuant to the CD Credit Agreement, and (ii) the TCF Senior Lenders will make available to the Borrower the TCF Senior Loans pursuant to the TCF Credit Agreement.

- (b) On or about the Closing Date, the Borrower will issue to the CD Senior Noteholders the CD Senior Notes pursuant to the CD Senior Notes Indenture.
- (c) Notwithstanding any other provision of this Article 2, the Borrower may from time to time enter into any Extension Amendment under and as defined in the CD Credit Agreement or the TCF Credit Agreement, as applicable.
- (d) Notwithstanding anything to the contrary herein, the CD Senior Loans, TCF Senior Loans, and Indebtedness under CD Senior Notes shall not be deemed to be a "Replacement Debt", "Relevering Debt", or "Supplemental Debt".

2.3 Working Capital Debt

- (a) The Borrower may incur senior secured Indebtedness, including the issuance of letters of credit, the proceeds of which shall be permitted to be used solely for working capital purposes related to the Project (the "**Working Capital Debt**").
- (b) On the Closing Date, the CD Revolving Lenders will make available to the Borrower and the Borrower will incur Working Capital Debt under the CD Revolving Loans pursuant to the CD Credit Agreement, which shall constitute Working Capital Debt hereunder.
- (c) After the Closing Date, the Borrower may only incur Working Capital Debt if, on the date of the incurrence of such Working Capital Debt, the following conditions have been satisfied or waived by the P1 Intercreditor Agent (acting upon the direction of the Required Senior Secured Debt Holders):
 - (i) no CTA Default or CTA Event of Default shall have occurred and be continuing or shall result from the incurrence of such Working Capital Debt;
 - (ii) the Senior Secured Debt Instrument governing such Working Capital Debt shall include a provision requiring the Borrower to reduce the principal amount relating to any ~~revolving~~ **working capital** loans to zero Dollars for a period of not less than five consecutive Business Days at least once per calendar year; provided, that this requirement shall not apply at any time prior to the Project Completion Date and this requirement shall not apply to letters of credit outstanding or Senior Secured Debt outstanding as a result of a draw under a letter of credit; provided, further, that the foregoing shall not limit the utilization by the Borrower of other Indebtedness for such purposes so long as such other Indebtedness is permitted to be incurred pursuant to Section 5.4 and the terms and conditions of such Indebtedness permit such utilization; and
 - (iii) the Senior Secured Debt Holder Representative for the Working Capital Debt shall have entered into a Common Terms Accession Agreement and a CIA Accession Confirmation in accordance with Section 2.7.
- (d) Prior to the incurrence of Working Capital Debt, the Borrower shall deliver to the P1 Intercreditor Agent a certificate from an Authorized Officer of the Borrower, substantially in the form set out in Exhibit C, which certificate shall (A) certify as to the satisfaction of the conditions set forth in Section 2.3(c)(i) and Section 2.3(c)(ii) above in connection with the incurrence of any such Working

Capital Debt, (B) identify each Senior Secured Debt Holder Representative and each Holder for any Working Capital Debt, and (C) provide a summary of the terms of such Working Capital Debt that are relevant for establishing compliance herewith.

- (e) Any Working Capital Debt shall be treated in all respects as Senior Secured Debt sharing *pari passu* in the Collateral and in right of payment.

2.4 Replacement Debt

- (a) Subject to the provisions of this Section 2.4, the Borrower may incur Senior Secured Debt, the proceeds of which shall be used to refinance the funded or unfunded commitments of existing Senior Secured Debt (other than Working Capital Debt) subject to the prepayment terms thereof, and for the other purposes described in Section 2.4(b)(ii) ("**Replacement Debt**").
- (b) The Borrower may incur Replacement Debt at its sole discretion, only if, on the date of incurrence thereof, the following conditions are satisfied or waived by the P1 Intercreditor Agent (acting upon the direction of the Required Senior Secured Debt Holders):
 - (i) the maximum principal amount of the proposed Replacement Debt does not exceed the sum of: (A) the unfunded commitments of Senior Secured Debt being cancelled concurrently with the incurrence of such Replacement Debt, *plus* (B) the outstanding principal amount of the Senior Secured Debt being repaid concurrently (or reserved for repayment in accordance with Section 2.4(b)(ii)(B)(1)) with the incurrence of such Replacement Debt, *plus* (C) all premiums, fees, costs, expenses and reserves (including any incremental increase in any DSRA Reserve Amounts resulting from the incurrence of such Replacement Debt and for interest during construction) associated with arranging, issuing, and incurring such Replacement Debt, *plus* (D) all interest, premiums, fees, costs, expenses, and any other amounts required to be paid to the Senior Secured Debt Holders being prepaid with the proceeds of the Replacement Debt, *plus* (E) any P1 IR Hedge Termination Amount that is or will be due and payable with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such prepayment in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement (or any amounts reserved for repayment of such Senior Secured IR Hedge Agreement in accordance with Section 2.4(b)(ii)(B)(2)), *plus* (F) if applicable, the aggregate amount of the Extraordinary Distributions to be made to the Pledgor in accordance with (x) Section 3.1(c) (*P1 Construction Account*) and clause (h) of the definition of P1 Project Costs or (y) Section 3.3(a) (*P1 Revenue Account*), as applicable, of the P1 Accounts Agreement in connection with the incurrence of such Replacement Debt;
 - (ii) concurrently with the incurrence of any Replacement Debt, the Borrower shall (A) cancel the unfunded commitments of the relevant Senior Secured Debt in the amount included in Section 2.4(b)(i)(A) which shall be equal to the unfunded commitments of the Replacement Debt after giving effect to subpart (B) of this Section 2.4(b)(ii) and/or (B) apply the funded

proceeds of such Replacement Debt to the payment of the amounts included in Section 2.4(b)(i)(B)-(F), or to reserve for (1) any such payment that is permitted or required to be deferred pursuant to the relevant Senior Secured Debt Instrument and (2) an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of prepayment to be payable by the Borrower in connection with any such prepayment in accordance with Section 10(g) (*Application of Replacement Debt to the Senior Secured Obligations*) of the Collateral and Intercreditor Agreement;

- (iii) no CTA Event of Default shall have occurred and be continuing or shall result from the incurrence of such Replacement Debt; and
 - (iv) the Senior Secured Debt Holder Representative for the Replacement Debt shall have entered into a Common Terms Accession Agreement and a CIA Accession Confirmation in accordance with Section 2.7.
- (c) Prior to the incurrence of Replacement Debt, the Borrower shall deliver to the P1 Intercreditor Agent a certificate from an Authorized Officer of the Borrower, substantially in the form set out in Exhibit D, which certificate shall: (A) identify the amount of the Senior Secured Debt being replaced and the amount of commitments for the Senior Secured Debt being cancelled by the Replacement Debt and each Senior Secured Debt Holder Representative and (except in the case of any Replacement Debt issued and sold in one or more public or private capital markets transactions) each Senior Secured Debt Holder for such Replacement Debt, (B) certify as to the satisfaction of the conditions set forth in Section 2.4(b)(i), Section 2.4(b)(ii), and Section 2.4(b)(iii) above in connection with the incurrence of any such Replacement Debt, and (C) provide a summary of the terms of such Replacement Debt that are relevant for establishing compliance herewith.
- (d) Any Replacement Debt shall be treated in all respects as Senior Secured Debt, sharing *pari passu* in the Collateral and in right of payment. For the avoidance of any doubt, the Borrower may incur Replacement Debt without complying with this Section 2.4 if all Senior Secured Debt outstanding immediately prior to the incurrence of any Replacement Debt will be repaid in full and all remaining available commitments in respect thereof are terminated.

2.5 Relevering Debt

- (a) Subject to the provisions of this Section 2.5, the Borrower may incur Senior Secured Debt to relever the Project ("**Relevering Debt**"), the proceeds of which may be distributed to the Pledgor, and for the other purposes described in Section 2.5(b)(i).
- (b) The Borrower may incur Relevering Debt at its sole discretion, only if, on the date of incurrence thereof, the following conditions are satisfied or waived by the P1 Intercreditor Agent (acting upon the direction of the Required Senior Secured Debt Holders):
- (i) concurrently with the incurrence of any Relevering Debt, the Borrower shall apply the proceeds of such Relevering Debt in the following order: (A) *first*, to pay all premiums, fees, costs, expenses and reserves (including

any incremental increase in any DSRA Reserve Amounts resulting from the incurrence of such Relevering Debt) associated with arranging, issuing, and incurring such Relevering Debt; (B) *second*, to (1) pay any P1 IR Hedge Termination Amount that is or will be due and payable with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence or (2) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence; and (C) *third*, to deposit to (1) at any time prior to the Project Completion Date, the P1 Construction Account and (2) at any time on or after the Project Completion Date, as determined by the Borrower, the P1 Revenue Account or the P1 Distribution Reserve Account;

- (ii) no CTA Default or CTA Event of Default shall have occurred and be continuing or shall result from the incurrence of such Relevering Debt; and
 - (iii) the Senior Secured Debt Holder Representative for the Relevering Debt shall have entered into a Common Terms Accession Agreement and a CIA Accession Confirmation in accordance with Section 2.7.
- (c) Prior to the incurrence of Relevering Debt, the Borrower shall deliver to the P1 Intercreditor Agent a certificate from an Authorized Officer of the Borrower, substantially in the form set out in Exhibit E, which certificate shall: (A) identify each Senior Secured Debt Holder Representative and (except in the case of any Relevering Debt issued and sold in one or more public or private capital markets transactions) each Senior Secured Debt Holder for any Relevering Debt, (B) certify as to the satisfaction of the conditions set forth in Section 2.5(b)(i) and Section 2.5(b)(ii) above in connection with the incurrence of any such Relevering Debt, and (C) provide a summary of the terms of such Relevering Debt that are relevant for establishing compliance herewith.
- (d) Any Relevering Debt shall be treated in all respects as Senior Secured Debt, sharing *pari passu* in the Collateral and in right of payment.

2.6 Supplemental Debt

- (a) Without limiting the provisions of Section 2.3, Section 2.4, and Section 2.5, and subject to the provisions of this Section 2.6, the Borrower may incur additional senior secured Indebtedness to finance (i) P1 Project Costs, (ii) the costs in respect of Permitted Capital Improvements (including any such costs allocable to the Borrower pursuant to the CFPA), or (iii) any Extraordinary Distributions to the Pledgor in accordance with (A) Section 3.1(c) (*P1 Construction Account*) and clause (g) or (i) of the definition of P1 Project Costs, (B) Section 3.12(b) (*P1 Capital Improvement Account*), or (C) Section 3.3(a) of the P1 Accounts Agreement, and for the other purposes described in Section 2.6(b)(i) ("**Supplemental Debt**").
- (b) The Borrower may incur Supplemental Debt at its sole discretion, only if, on the date of incurrence thereof, the following conditions are satisfied or waived by the

P1 Intercreditor Agent (acting upon the direction of the Required Senior Secured Debt Holders):

- (i) the principal amount of such Supplemental Debt does not exceed: (A) the amounts included in Section 2.6(a)(i)-(iii), as applicable, *plus* (B) all premiums, fees, costs, expenses and reserves (including any incremental increase in any DSRA Reserve Amounts resulting from the incurrence of such Supplemental Debt) associated with arranging, issuing and incurring such Supplemental Debt *plus* (C) 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;
 - (ii) simultaneously with the incurrence of any Supplemental Debt, the Borrower shall use a portion of the proceeds of such Supplemental Debt to fund any reserves (including any incremental increase in any DSRA Reserve Amounts resulting from the incurrence of such Supplemental Debt);
 - (iii) no CTA Default or CTA Event of Default shall have occurred and be continuing or shall result from the incurrence of such Supplemental Debt; and
 - (iv) the Senior Secured Debt Holder Representative for the Supplemental Debt shall have entered into a Common Terms Accession Agreement and a CIA Accession Confirmation in accordance with Section 2.7.
- (c) Prior to the incurrence of Supplemental Debt, the Borrower shall deliver to the P1 Intercreditor Agent a certificate from an Authorized Officer of the Borrower, substantially in the form set out in Exhibit E, which certificate shall: (A) identify each Senior Secured Debt Holder Representative and (except in the case of any Supplemental Debt issued and sold in one or more public or private capital markets transactions) each Senior Secured Debt Holder for any Supplemental Debt, (B) certify as to the satisfaction of the conditions set forth in Section 2.6(b)(i), Section 2.6(b)(ii), and Section 2.6(b)(iii) above in connection with the incurrence of any such Supplemental Debt, and (C) provide a summary of the terms of such Supplemental Debt that are relevant for establishing compliance herewith, including the material terms, permitted uses, tenor and amortization, rate of interest (or formula applicable to the circulation thereof), and fees.
- (d) Any Supplemental Debt shall be treated in all respects as Senior Secured Debt, sharing *pari passu* in the Collateral and in right of payment.

2.7 Accession Agreements

- (a) Each Senior Secured Debt Holder Representative that is not party to this Agreement on the date hereof shall enter into (i) a Common Terms Accession Agreement substantially in the form set out in Exhibit A, and (ii) a CIA Accession Confirmation substantially in the form set out in Exhibit A to the Collateral and Intercreditor Agreement.
- (b) Each Common Terms Accession Agreement shall specify in Appendix A thereto:

- (i) the identity of the relevant Senior Secured Debt Holder Representative;
 - (ii) the Senior Secured Debt subject thereof and (except in the case of any Senior Secured Debt issued and sold in one or more public or private capital markets transactions) the identity of the Holders thereof; and
 - (iii) the Senior Secured Debt Instruments subject thereof.
- (c) Upon receipt of the relevant Common Terms Accession Agreement and compliance with the requirements of Section 2.3, Section 2.4, Section 2.5, or Section 2.6 (as applicable), the P1 Intercreditor Agent (without further instruction) shall amend Schedule 2.7 accordingly and shall deliver each such revised Schedule 2.7 to the Borrower, the P1 Collateral Agent, and each Senior Secured Debt Holder Representative.

2.8 Transfers and Holding of Senior Secured Obligations

- (a) The Senior Secured Debt Instruments may be held, sold, exchanged, traded, assigned, or otherwise transferred by each Senior Secured Debt Holder as provided in the relevant Senior Secured Debt Instrument. Any Person becoming a Senior Secured Debt Holder from time to time in accordance with such Senior Secured Debt Instrument shall be and become a Senior Secured Debt Holder for the purposes of this Agreement and each Person ceasing to be a Senior Secured Debt Holder from time to time in accordance with such Senior Secured Debt Instrument shall cease to be a Senior Secured Debt Holder for the purposes of this Agreement.
- (b) Any Senior Secured Debt Holder Representative may be replaced in accordance with the relevant Senior Secured Debt Instrument, and the P1 Collateral Agent and the P1 Intercreditor Agent shall be notified promptly of any such replacement, which shall become effective only upon the replacement Senior Secured Debt Holder Representative executing and delivering to the P1 Intercreditor Agent a Transfer Accession Agreement to be bound by the Common Terms Accession Agreement and the CIA Accession Confirmation to which its predecessor was a party, and the P1 Intercreditor Agent (without further instruction) shall amend Schedule 2.7 accordingly and shall deliver each such revised Schedule 2.7 to the Borrower, the P1 Collateral Agent and each Senior Secured Debt Holder Representative.

2.9 Payment in Full of Senior Secured Debt

Upon the payment in full of all Senior Secured Debt and other Senior Secured Obligations under any Senior Secured Debt Instrument (other than Senior Secured Obligations thereunder that by their terms survive and with respect to which no claim has been made by the applicable Senior Secured Debt Holder) and the expiration or termination of all commitments under such Senior Secured Debt Instrument in accordance with the terms thereof and the cancellation and return by the Borrower of any outstanding letters of credit issued under such Senior Secured Debt Instrument, the relevant Senior Secured Debt Holder Representative shall give notice thereof to the P1 Collateral Agent and the P1 Intercreditor Agent, whereupon, without further action by any Person:

- (a) the former Senior Secured Debt Holders shall no longer be Senior Secured Debt Holders under this Agreement and shall no longer have any rights or obligations under this Agreement, except for those provisions that by their terms expressly survive termination;
- (b) the related Senior Secured Debt Instruments shall no longer be Senior Secured Debt Instruments under this Agreement; and
- (c) such Senior Secured Debt Holder Representative, in such capacity, shall no longer be a Senior Secured Debt Holder Representative or a Party.

3. REPRESENTATIONS AND WARRANTIES

3.1 General

The Borrower makes each representation and warranty set forth in this Article 3 on the Closing Date in favor and for the benefit of the Senior Secured Debt Holders.

3.2 Existence

The Borrower is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Texas and is duly qualified to do business as a limited liability company in the State of Texas and in all other places where necessary in light of the business it conducts and intends to conduct and the Property it owns or leases and intends to own or lease and in light of the transactions contemplated by this Agreement, except where the failure to so be qualified does not have and could not reasonably be expected to have a Material Adverse Effect. No filing, recording, publishing, or other act by the Borrower that has not been made or done is necessary in connection with the existence or good standing of the Borrower.

3.3 Action

The Borrower has full limited liability company power, authority, and legal right to execute and deliver, and to perform its obligations under, this Agreement. The execution, delivery, and performance by the Borrower of this Agreement have been duly authorized by all necessary limited liability company action on the part of the Borrower. This Agreement has been duly executed and delivered by the Borrower and, assuming due execution and delivery of the same by the relevant parties thereto, is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as limited by general principles of equity and bankruptcy, insolvency, and similar laws.

3.4 No Breach

The execution and delivery by the Borrower of this Agreement do not and will not:

- (a) require any consent or approval of any Person that has not been obtained and all such consents and approvals that have been obtained remain in full force and effect;
- (b) violate any material provision of any Government Rule or Government Approval applicable to the Borrower, the Rio Grande Facility, the Project, or the Development;

- (c) violate in any material respect, result in a material breach of, or constitute a material default under any material contract or agreement to which the Borrower is a party or by which it or its Property may be bound or affected; or
- (d) result in, or create any Lien (other than a Permitted Lien) upon or with respect to any of the Properties now owned or hereafter acquired by the Borrower.

4. AFFIRMATIVE COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) the obligations set forth in this Article 4 in favor of each Senior Secured Debt Holder.

4.1 Maintenance of Existence, Etc.

The Borrower shall maintain its existence as a limited liability company (or such other form of entity as is permitted hereby) in Texas; provided, that, subject to Section 5.2, the foregoing shall not prohibit conversion into another form of entity or continuation in another jurisdiction.

4.2 RG Facility Entities

The Borrower shall retain and at all times maintain its direct legal and beneficial ownership of all of the Equity Interests (including, for avoidance of doubt, Voting Interest) in each RG Facility Entity, in each case, subject only to adjustment in accordance with the limited liability company agreement of such RG Facility Entity.

4.3 Separateness

The Borrower shall comply at all times with the separateness provisions set forth on Schedule 4.3.

4.4 Compliance with Material Project Documents

The Borrower shall comply in all respects with its payment and other material obligations under the Material Project Documents, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

4.5 Compliance with Material Government Approvals

The Borrower shall obtain and maintain, and thereafter comply in all respects with, all Material Government Approvals, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

4.6 Compliance with Government Rules

The Borrower shall comply with all material Government Rules applicable to the Borrower or the Development, except where such failure to comply could not reasonably be expected to have a Material Adverse Effect, and excluding Government Rules applicable to Taxes, as to which Section 4.8 shall apply.

4.7 Project Construction

The Borrower will use its commercially reasonable efforts to perform, or cause to be performed, all work and services required or appropriate in connection with the Development.

4.8 Taxes

The Borrower shall pay and discharge, before the same shall become delinquent, after giving effect to any applicable extensions, all Taxes imposed on it or its property unless such Taxes are being contested in good faith and by appropriate proceedings for which adequate reserves in accordance with GAAP are maintained with respect thereto and such proceedings, if adversely determined, could not reasonably be expected to have a Material Adverse Effect.

4.9 Interest Rate Hedging

On and after the day that is 45 days following the Closing Date, the Borrower shall maintain in full force and effect at all times, one or more Senior Secured IR Hedge Agreements with respect to Senior Secured IR Hedge Transactions having a notional amount (after giving effect to any Offsetting Transactions) in respect of each Quarterly Payment Date equal to at least 75% and, except for a period not to exceed 45 consecutive days following any prepayment of any Senior Secured Debt, not at any time more than 110% of the Projected Principal Amount on such Quarterly Payment Date of the Senior Secured Debt; provided, that, for purposes of calculating the foregoing percentages, (a) the principal balance of the Working Capital Debt shall be excluded, and (b) any Senior Secured Debt which bears a fixed interest rate shall be deemed subject to a Senior Secured IR Hedge Agreement.

4.10 Auditors

The Borrower shall engage Grant Thornton LLP (or such other independent certified public accountants of recognized national standing) as auditors to audit its financial statements.

4.11 Access; Inspection

- (a) The Borrower shall permit the P1 Intercreditor Agent or its designee from time to time, including during the pendency of a CTA Event of Default, upon reasonable prior written notice but no more than twice per calendar year (unless a CTA Event of Default has occurred and is continuing) and in accordance with the CFAA, to examine, excerpts from its books, records, and documents and to make copies thereof, all at such times during normal business hours as the P1 Intercreditor Agent or its designee may reasonably request upon thirty days' advance notice; provided, that all such inspections are conducted during normal business hours and in a manner that does not disrupt the operation of the Project, the Development, or the Rio Grande Facility. So long as any CTA Event of Default has occurred and is continuing, the reasonable fees and documented expenses of the P1 Intercreditor Agent or its designee shall be for the account of the Borrower.
- (b) Site visits to the Project may be conducted upon reasonable request by (i) the Independent Engineer and, if requested, the P1 Intercreditor Agent or its designee, any such visits to be coordinated between the Independent Engineer and the P1 Intercreditor Agent or its designee up to two times per calendar year, except to the extent additional visits may be reasonably required in connection with the

occurrence of a CTA Default or CTA Event of Default and (ii) any Consultant to the extent reasonably required for such Consultant to witness any testing or otherwise in connection with or to provide any report, certificate, or confirmation explicitly contemplated by the terms of the P1 Financing Documents. Site visits shall only be conducted during normal business hours, in a manner that does not unreasonably disrupt the construction or operation of the Project in any respect, and subject to the confidentiality provisions of Section 15.15 (*Termination of Certain Information; Confidentiality*) of the Collateral and Intercreditor Agreement or analogous confidentiality restrictions required by the Borrower and observance of all applicable environmental, health, safety, and industrial site visit policies.

5. NEGATIVE COVENANTS

The Borrower covenants and agrees that, until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) the obligations set forth in this Article 5 in favor of the Senior Secured Debt Holders.

5.1 Business Activities

The Borrower will not engage in any business or activities other than the Permitted Businesses, except to such extent as would not be material to the Borrower, taken as a whole.

5.2 Fundamental Changes

The Borrower will not, directly or indirectly, consolidate, amalgamate, or merge with or into another Person (regardless of whether the Borrower is the surviving entity). The Borrower will not convert into another form of entity or continue in another jurisdiction where such conversion or continuance would be adverse in any material respect to the Senior Secured Debt Holders (in their capacities as Senior Secured Debt Holders). The Borrower will not sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the properties or assets of the Borrower taken as a whole, in one or more related transactions, to another Person. The Borrower shall not dissolve, liquidate, terminate, reorganize or wind up and shall not take any action to amend or modify its corporate constituent or governing documents where such amendment would be adverse in any material respect to the Senior Secured Debt Holders (in their capacities as Senior Secured Debt Holders).

5.3 Asset Sales

- (a) The Borrower will not consummate an Asset Sale unless (i) the Borrower receives consideration at the time of the Asset Sale equal to the greater of (A) the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of and (B) an amount equal to the invested cost of the assets sold or otherwise disposed of, less depreciation and (ii) at least ninety percent of the consideration therefor received by the Borrower is in the form of cash, Cash Equivalents or Replacement Assets or a combination thereof; provided, that the following shall not be deemed to be an "Asset Sale": (1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$200,000,000, (2) the sale or other disposition of cash or Cash Equivalents, (3) a grant of a Lien not prohibited by this Agreement, (4) a Distribution that does not violate Section 5.10, (5) sales, transfers, or other dispositions of Permitted

Investments, (6) transfers or novations of Senior Secured IR Hedge Agreements, (7) the sale or other disposition of assets that are obsolete and no longer useful in the conduct of the Borrower's business, (8) any single transaction or series of related transactions pursuant to the terms of an agreement existing on the date of this Agreement, (9) disposals of materials developed or obtained in the excavation or other operations of the P1 EPC Contractor pursuant to Section 3.22 (*Title to Materials Found*) of a P1 EPC Contract, (10) settlements, releases, waivers or surrenders of contract, tort or other claims in the ordinary course of business, (11) conveyances of gas interconnection or metering facilities to gas transmission companies and conveyances of electricity substations to electricity providers pursuant to its electricity purchase arrangements for operating the Rio Grande Facility, (12) the AEP Land Release, and (13) sales or other dispositions of LNG, Gas, or natural gas liquids (or other commercial products) in accordance with the Project Documents.

- (b) For purposes of this Section 5.3, each of the following will be deemed to be cash: (i) any liabilities, as shown on the Borrower's most recent consolidated balance sheet (or as would be shown on the Borrower's consolidated balance sheet as of the date of such Asset Sale) of the Borrower (other than contingent liabilities and liabilities that are by their terms subordinated to the Senior Secured Debt) that are assumed by the transferee of any such assets pursuant to a written novation agreement that releases the Borrower from further liability therefor and (ii) any securities, notes or other obligations received by the Borrower from such transferee that are converted by the Borrower into cash or Cash Equivalents within ninety days after such Asset Sale, to the extent of the cash or Cash Equivalents received in that conversion.

5.4 Restrictions on Indebtedness

- (a) The Borrower shall not directly or indirectly create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to any Indebtedness except for Permitted Indebtedness.
- (b) For purposes of determining compliance with this Section 5.4, if an item of Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness, then the Borrower will be permitted to classify or divide such item of Indebtedness on the date of its incurrence, or later reclassify or redivide all or a portion of such item of Indebtedness, in any manner.
- (c) The accrual of interest, the accretion or amortization of original issue discount, and the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 5.4; provided, in each such case, that the amount of any such accrual, accretion or payment is included in Debt Service as accrued.
- (d) Notwithstanding anything to the contrary herein, the maximum amount of Indebtedness that the Borrower may incur hereunder shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.
- (e) The amount of any Indebtedness outstanding as of any date which is issued with original issue discount will be the accreted value of such Indebtedness.

- (f) The amount of any Indebtedness outstanding as of any date (including any classification or division of Indebtedness for purposes of Section 5.4(b)) shall include (i) the aggregate amount of Indebtedness that any outstanding preferred stock may be converted into, whether or not the conditions to such conversion have theretofore occurred, (ii) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the least of (A) the Fair Market Value of such asset on the date of determination and (B) the amount of the Indebtedness of the other Person; and (iii) the principal amount of the Indebtedness, in the case of any other Indebtedness.

5.5 Guarantees

The Borrower will not directly or indirectly create, incur or assume or otherwise be or become liable with respect to any Guarantee, other than:

- (a) Guarantees of Indebtedness that would be permitted to be incurred directly by the Borrower in accordance with Section 5.4 (provided, that if the Indebtedness would have been required to be subordinated to be permitted in accordance with such Section 5.4, then the obligations of the Borrower under the corresponding Guarantee shall be commensurately subordinated); and
- (b) Guarantees in the ordinary course of business pursuant to a Material Project Document.

5.6 Convertible Equity Interests

The Borrower shall not issue Equity Interests convertible to Indebtedness unless, upon the conversion of such Equity Interests to Indebtedness, such resulting Indebtedness would be permitted in accordance with Section 5.4. The amount of Indebtedness into which any Equity Interests may be converted shall be included in the calculation of any basket of Permitted Indebtedness in accordance with the definition thereof.

5.7 Hedging Arrangements

The Borrower shall not enter into any Hedge Agreements other than Senior Secured Hedge Agreements and Other Permitted Hedges.

5.8 Limitation on Liens

The Borrower will not create, assume, incur, permit or suffer to exist any Lien upon the Collateral, whether now owned or hereafter acquired, except for the Permitted Liens.

5.9 Permitted Investments

The Borrower will not make, and will not instruct the P1 Accounts Bank to make, any Investments other than Permitted Investments.

5.10 Distributions

The Borrower will not make or agree to make, directly or indirectly, any Distributions, other than Extraordinary Distributions made in accordance with the P1 Accounts Agreement, unless on the Distribution Date each of the following conditions (the "**Distribution Release Conditions**") has been satisfied:

- (a) no CTA Default or CTA Event of Default has occurred and is continuing as of the Distribution Date or would occur as a result of the Distribution;
- (b) the Project Completion Date has occurred;
- (c) (i) the Historical DSCR as of the Fiscal Quarter most recently ended or then ending is at least 1.25 to 1.00 and (ii) the Contracted Projected DSCR for the next four Fiscal Quarter period is at least 1.25 to 1.00; provided, that the Borrower may, at its option, exclude any Debt Service that was pre-funded with proceeds of Indebtedness;
- (d) each Debt Service Reserve Account is funded in accordance with the P1 Accounts Agreement to its DSRA Reserve Amount; and
- (e) the Borrower shall have delivered to the P1 Intercreditor Agent a certificate of an Authorized Officer of the Borrower (i) to the effect that all of the foregoing conditions for a Distribution on the Distribution Date have been satisfied and (ii) setting forth in reasonable detail the calculations for computing each of the Historical DSCR and the Contracted Projected DSCR for the relevant periods and stating that such calculations were prepared in good faith and were based on reasonable assumptions;

provided, that, subject to the P1 Accounts Agreement, the Borrower may make Distributions pursuant to this Section 5.10 not more frequently than once per calendar month.

5.11 Transactions with Affiliates

The Borrower will not, directly or indirectly, enter into any transaction that is otherwise permitted hereunder with or for the benefit of an Affiliate (including Guarantees and assumptions of obligations of an Affiliate) (each, an “**Affiliate Transaction**”) involving aggregate payments or consideration with respect to a single transaction or a series of related transactions, in excess of \$25,000,000 except:

- (a) (i) the Project Documents in existence on the Closing Date, (ii) any Affiliate Transactions required or contemplated by such Project Documents, and (iii) any amendments to or replacements of such contracts, agreements, or understandings referenced in this clause (a);
- (b) to the extent required by Government Rules or Government Approvals;
- (c) upon terms no less favorable to the Borrower than would be obtained in a comparable arm's-length transaction with a Person that is not an Affiliate (based on then-current market conditions for transactions of a similar nature and duration and taking into account such factors as the characteristics of the goods and services, the market for such goods and services (including any applicable regulatory conditions), tax effects of the transaction, the location of the Project and the counterparties), or, if no comparable arm's-length transaction with a Person that is not an Affiliate is available, then on terms reasonably determined by the Borrower to be fair and reasonable;
- (d) in respect of Permitted Subordinated Debt;

- (e) officer or director indemnification agreements or any similar arrangements entered into by the Borrower in the ordinary course of business and payments pursuant thereto;
- (f) the payment of reasonable directors' fees to Persons who are not otherwise Affiliates of the Borrower;
- (g) the sale of CTA Supplemental Quantities of LNG;
- (h) Distributions made in accordance with the P1 Financing Documents;
- (i) any Time Charter Party Agreement;
- (j) Permitted Investments;
- (k) the ownership of Equity Interests in any RG Facility Entity; and
- (l) the issuance of Equity Interests of the Borrower (other than Disqualified Stock).

5.12 RG Facility Entity Voting

Except as could not reasonably be expected to have a Material Adverse Effect, the Borrower shall not exercise any voting, consent or other rights or powers in respect of its Equity Interests in any RG Facility Entity in a way so as to allow such RG Facility Entity to:

- (a) change its legal form, amend its limited liability company agreement or any other constitutive document, merge into or consolidate with, or acquire (in one transaction or series of related transactions) all or any portion of any business, any Equity Interests in or any material part of the assets or property of any other Person or liquidate, wind up, reorganize, terminate or dissolve;
- (b) engage in any business or activities other than the development, engineering, construction, commissioning, operation and maintenance of the Rio Grande Facility and expansions to or modifications of the Rio Grande Facility and any activities incidental thereto made in accordance with the Transaction Documents to which such Person is a party;
- (c) dispose of, in one transaction or a series of transactions (other than the AEP Land Release and as otherwise required or expressly permitted under the Transaction Documents), (i) any portion of the Land or any lease, easement or other interest in the Land that is material to the development, engineering, construction, commissioning, operation or maintenance of the Rio Grande Facility or (ii) any portion of the Common Facilities other than sales or other dispositions of Land, leases, easements, or other interests in Land or assets comprising the Common Facilities that are not (or no longer) used or useful in the business of the Rio Grande Facility in the ordinary course of the Rio Grande Facility's business;
- (d) suspend, cancel, or terminate any Material Government Approval applicable to such RG Facility Entity or consent to or accept any cancellation or termination thereof;

- (e) suspend, cancel, or terminate the P1 Sublease, any Facility Easement Agreement, or other agreement granting interests in the Land to the Borrower or any RG Facility Entity or consent to or accept any cancellation or termination thereof;
- (f) propose or consent to any amendment of any material provision of the LandCo Site Lease (other than in connection with the AEP Land Release) or the Common Facilities Sublease;
- (g) directly or indirectly create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to any Indebtedness other than Permitted Indebtedness of the types specified in clauses (c), (e)-(i), (k), and (l) of the definition of Permitted Indebtedness;
- (h) (other than as required or expressly permitted under the Transaction Documents) create, assume, incur, permit, or suffer to exist any Lien upon the property of such RG Facility Entity, whether now owned or hereafter acquired, except for Permitted Liens; or
- (i) take any action in respect of a Common Account that is not permitted by the P1 Financing Documents.

5.13 Amendments to RG Facility Agreements

The Borrower shall not agree to any material amendment or termination of any RG Facility Agreement to which it is or becomes a party (other than in connection with the AEP Land Release) unless (i) a copy of such amendment or termination has been delivered to the P1 Intercreditor Agent in advance of the effective date thereof along with a certificate of an Authorized Officer of the Borrower certifying that the proposed amendment or termination could not reasonably be expected to have a Material Adverse Effect or (ii) the Borrower has obtained the consent of the Required Senior Secured Debt Holders to such amendment or termination.

5.14 Capital Improvements

The Borrower shall not make any Capital Improvements other than Permitted Capital Improvements.

6. REPORTING REQUIREMENTS

The Borrower covenants and agrees through the Discharge Date to provide the following to the P1 Intercreditor Agent:

6.1 Financial Statements

As soon as available and in any event prior to the date specified below:

- (a) on or prior to the sixtieth day after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Borrower:
 - (i) unaudited statements of income and cash flows of the Borrower for such period and for the period from the beginning of the respective Fiscal Year to the end of such period; and

- (ii) the related unaudited balance sheet as at the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period in the preceding Fiscal Year; provided, that the Borrower shall not be required to deliver comparative financial statements for the first three Fiscal Quarters following the Closing Date;
- (b) on or prior to the 120th day after the end of each Fiscal Year of the Borrower, audited statements of income, member's equity and cash flows of the Borrower for such year and the related audited balance sheets as at the end of such Fiscal Year, and accompanied by an opinion of Grant Thornton LLP or other independent certified public accountants of recognized national standing, which opinion shall state that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower as at the end of, and for, such Fiscal Year in accordance with GAAP; and
- (c) concurrently with the delivery of the financial statements pursuant to Section 6.1(a) or Section 6.1(b):
 - (i) a certificate executed by an Authorized Officer of the Borrower certifying that such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower on the dates and for the periods indicated in accordance with GAAP, subject, in the case of quarterly financial statements to the absence of notes and normal year-end audit adjustments; and
 - (ii) a certificate executed by an Authorized Officer of the Borrower certifying that to the Borrower's Knowledge no default or event of default under any Senior Secured Debt Instrument exists as of the date of such certificate or, if any default or event of default under any Senior Secured Debt Instrument exists, describing the same in reasonable detail and describing what action the Borrower has taken and proposes to take with respect thereto.

6.2 Notice of CTA Default, CTA Event of Default, and Other Events

As soon as practicable and in any event, unless otherwise specified, within five Business Days after the Borrower obtains Knowledge of any of the following, written notice to the P1 Intercreditor Agent of the occurrence of any CTA Default or CTA Event of Default.

7. EVENTS OF DEFAULT

Each of the following events or occurrences set forth in this Article 7 shall be a CTA Event of Default in respect of all Senior Secured Debt.

7.1 Non-Payment of Senior Secured Debt

The Borrower shall (a) fail to pay when due any principal of any Senior Secured Debt in a principal amount in excess of \$200,000,000 unless (i) such failure is caused by an administrative or technical error and (ii) payment is made within three Business Days of its due date or (b) fail to pay when due any interest on any Senior Secured Debt, any periodic settlement payment or termination payment in respect of any Senior Secured Hedge Agreement, or any commitment or similar fee payable by it under any Senior

Secured Debt Instrument when due and, in each of the cases set forth in this clause (b), such failure continues unremedied for a period of thirty days.

7.2 Cross-Acceleration

Any default shall occur with respect to any Indebtedness (other than any amount due in respect of Permitted Subordinated Debt) of the Borrower having drawn or undrawn principal amounts in excess of \$200,000,000 in the aggregate and shall have continued beyond any applicable grace period, the effect of which has been to cause the entire amount of such Indebtedness under this Section 7.2 to become due (whether by redemption, purchase, offer to purchase or otherwise) and such Indebtedness under this Section 7.2 remains unpaid or the acceleration of its stated maturity unrescinded.

7.3 Breaches of Covenant

- (a) Failure by the Borrower to comply with Section 5.2.
- (b) Failure by the Borrower for forty-five days to comply with the provisions of Section 5.4, Section 5.5, Section 5.6, or Section 5.8.
- (c) Failure by the Borrower to comply in any material respect with any covenant or agreement hereunder (other than as otherwise set forth in this Article 7), unless such failure is capable of being remedied and is remedied within sixty days after receipt by the Borrower of written notice from the P1 Intercreditor Agent or any Senior Secured Debt Holder Representative (or such longer period reasonably necessary to remedy such failure as long as corrective action is instituted within such sixty-day period and is diligently pursued until such failure is remedied during such longer period, in any event not to exceed one 180 days after the end of such sixty-day period).

7.4 Breaches of Representations and Warranties

Any representation or warranty made by the Borrower herein or in any certificate or other document delivered by it in connection herewith proves to have been incorrect when made and a Material Adverse Effect could reasonably be expected to result therefrom, unless the facts or circumstances underlying such misrepresentation are capable of being remedied and thereafter are remedied within sixty days after the date on which the Borrower receives written notice from the P1 Intercreditor Agent or any Senior Secured Debt Holder Representative that such representation or warranty proved to have been incorrect at the time made or deemed made.

7.5 Bankruptcy

- (a) The occurrence of a Bankruptcy with respect to the Borrower or the Pledgor.
- (b) The occurrence of a Bankruptcy with respect to a RG Facility Entity and such RG Facility Entity rejects any Material Project Document to which it is a Party; unless: (i) the Borrower notifies the P1 Intercreditor Agent that it intends to enter into a replacement Material Project Document in lieu of the Material Project Document to which any of such RG Facility Entity is party, (ii) the Borrower diligently pursues such replacement, (iii) the applicable Material Project Document is replaced not later than 360 days after the occurrence of the Bankruptcy, (iv) such replacement Material Project Document is on terms and

conditions, taken as a whole, not materially less favorable to the Borrower than the Material Project Document being replaced, and (v) the counterparty to such replacement Material Project Document is a subsidiary of the Borrower in which the Borrower holds the same or more Equity Interests as it did in the relevant RG Facility Entity immediately prior to the Bankruptcy of such RG Facility Entity.

- (c) (i) Prior to the date on which both T1 Substantial Completion and T2 Substantial Completion shall have occurred, the occurrence of a Bankruptcy with respect to the P1 EPC Contractor and the P1 EPC Contractor's guarantor under the T1/T2 EPC Contract or (ii) prior to the date on which T3 Substantial Completion shall have occurred, the occurrence of a Bankruptcy with respect to the P1 EPC Contractor and the P1 EPC Contractor's guarantor under the T3 EPC Contract; unless, in each case, (A) the Borrower notifies the P1 Intercreditor Agent that it intends to enter into a replacement P1 EPC Contract in lieu of such P1 EPC Contract; (B) the Borrower diligently pursues such replacement; (C) such P1 EPC Contract is replaced not later than 360 days after the occurrence of such Bankruptcy; (D) such replacement P1 EPC Contract is on terms and conditions (other than price), taken as a whole, not materially likely to cause the Project Completion Date not to occur by the date required under any applicable Senior Secured Debt Instruments; and (E) the counterparty to the replacement P1 EPC Contract is an internationally recognized contractor and the Borrower shall have delivered to the P1 Intercreditor Agent a certificate of the Independent Engineer certifying that such counterparty is capable of completing the applicable portion of the Project.

7.6 Litigation

A final judgment or order, or series of final judgments or orders, for the payment of money in excess of \$250,000,000 in the aggregate (net of insurance proceeds which are reasonably expected to be paid), in either case shall be rendered against either the Borrower or the Pledgor, in each case, by one or more Government Authorities, arbitral tribunals or other bodies having jurisdiction over the Borrower, and the same shall not be discharged (or provision shall not be made for such discharge), dismissed or stayed, within ninety days from the date of entry of such judgment or order or judgments or orders; provided, that such ninety-day period will be stayed if an appeal in respect of such judgment or judgments has been filed and not dismissed and, to the extent necessary to stay enforcement, a bond to stay the enforcement pending appeal has been posted.

7.7 Illegality or Unenforceability

This Agreement or any other Senior Secured Debt Document (other than any Senior Secured Debt Instrument or any Consent Agreement in respect of any Material Project Document that is not a Designated Offtake Agreement then in full force and effect, or any Consent Agreement where the occurrence of a CTA Event of Default has been triggered by an event affecting the underlying Material Project Document or a Senior Secured Debt prepayment remedy or other Event of Default is applicable under any P1 Financing Document) or any material provision thereof, (a) is declared by a court of competent jurisdiction to be illegal or unenforceable and such unenforceability or illegality is not cured (subject to any applicable Reservations) within five Business Days following the date of entry of such judgment (provided, that such five Business Day period will apply only so long as the relevant party is attempting in good faith to cure such unenforceability or illegality), (b) should otherwise cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration or

termination in accordance with its terms in the ordinary course (and not related to any default hereunder or thereunder)), or (c) is expressly terminated, contested or repudiated by the Borrower, the Pledgor, or P1 Equity Guarantor party thereto.

7.8 Abandonment

An Event of Abandonment occurs or is deemed to have occurred.

8. MISCELLANEOUS PROVISIONS

8.1 Amendments; Waivers

No amendment, termination or waiver of any provision of this Agreement and no consent to any departure by the Borrower shall be effective unless in writing signed by the P1 Intercreditor Agent (with the consent of the Required Senior Secured Debt Holders) and, in the case of an amendment, the Borrower and the P1 Intercreditor Agent (with the consent of the Required Senior Secured Debt Holders), and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, that no amendment, waiver, or consent shall, unless in writing and signed by the P1 Intercreditor Agent (in its discretion), affect the rights or duties of, or any fees or other amounts payable to, the P1 Intercreditor Agent under this Agreement.

8.2 Entire Agreement

This Agreement and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect of the subject matter hereof. Notwithstanding the foregoing, nothing herein shall reduce or diminish any obligation of the Borrower set forth in any Senior Secured Debt Instrument, or be deemed to permit the Borrower to take any action or permit any circumstance to exist that is prohibited by any Senior Secured Debt Instrument.

8.3 Applicable Law; Jurisdiction; Etc.

- (a) GOVERNING LAW. THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.
- (b) SUBMISSION TO JURISDICTION. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER P1 FINANCING DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY

LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER P1 FINANCING DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER P1 FINANCING DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION IF APPLICABLE LAW DOES NOT PERMIT A CLAIM, ACTION OR PROCEEDING REFERRED TO IN THE FIRST SENTENCE OF THIS SECTION 8.3(b) TO BE FILED, HEARD OR DETERMINED IN OR BY THE COURTS SPECIFIED THEREIN.

- (c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER P1 FINANCING DOCUMENT IN ANY COURT REFERRED TO IN SECTION 8.3(b). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.
- (d) Service of Process. The Borrower irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Person at its then effective notice addresses pursuant to Section 8.11.
- (e) Immunity. To the extent that the Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, the Borrower hereby irrevocably and unconditionally waives such immunity in respect of its obligations hereunder and, without limiting the generality of the foregoing, agrees that the waiver set forth in this Section 8.3(e) shall have the fullest scope permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and is intended to be irrevocable for purposes of such act.
- (f) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER P1 FINANCING DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO

ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER P1 FINANCING DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.3(f).

8.4 Assignments

Assignments of Senior Secured Debt shall be in accordance with and subject to the provisions of the applicable Senior Secured Debt Instrument.

8.5 Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of each Party, and its respective successors and permitted assigns. Except as expressly permitted hereby, the Borrower may not assign or otherwise transfer any of its rights or obligations under this Agreement.

8.6 Consultants

In connection with this Agreement and the other P1 Financing Documents, the Borrower shall pay (against direct invoices) the reasonable and documented fees and expenses of the Consultants and, during the occurrence and continuation of any CTA Event of Default, any other consultants and advisors of the Senior Secured Parties. Other than during the occurrence and continuation of any CTA Event of Default, the fees and expenses of the Consultants shall be subject to the contractual arrangements entered into by the Borrower with such Consultants or as otherwise agreed by the Borrower.

8.7 Costs and Expenses

The Borrower agrees to pay all reasonable and documented out-of-pocket expenses incurred by the P1 Intercreditor Agent in connection with the preparation, negotiation, syndication, execution and delivery and administration of this Agreement or in connection with any amendments, modifications or waivers of the provisions hereof (whether or not the transactions contemplated hereby shall be consummated), and all out-of-pocket expenses incurred by the P1 Intercreditor Agent in connection with the enforcement of its rights in connection with this Agreement, including the fees, charges and disbursements of not more than one law firm of national standing qualified to practice New York law, one law firm qualified to practice Texas law, one law firm qualified to practice law in any other relevant jurisdiction, and specialist counsel in respect of substantive areas not customarily covered by law firms of national standing that are relevant to the issue at hand.

8.8 Counterparts; Effectiveness

This Agreement may be executed in counterparts (and by different Parties in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by each of the Parties and when the P1 Intercreditor Agent has received counterparts hereof by the Borrower and the P1 Intercreditor Agent that, when taken together, bear the signatures of each of the other Parties. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or portable document format ("pdf") shall be effective as delivery of a manually executed counterpart of this

Agreement. The words “*execution*,” “*signed*,” “*signature*,” and words of like import in this Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

8.9 No Waiver; Cumulative Remedies

No failure by the P1 Intercreditor Agent, any Senior Secured Debt Holder Representative or any Senior Secured Debt Holder to exercise, and no delay by the P1 Intercreditor Agent, any Senior Secured Debt Holder Representative or any Senior Secured Debt Holder in exercising, any right, remedy, power or privilege hereunder or under any P1 Financing Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under any P1 Financing Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Government Rules.

8.10 Indemnification by Borrower

- (a) The Borrower hereby agrees to indemnify the P1 Intercreditor Agent and its Related Parties (each such Person being called an “**Indemnatee**”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities and related expenses (including all reasonable fees, costs and expenses of counsel for any Indemnatee), incurred by any Indemnatee or asserted against any Indemnatee by any Person arising out of, in connection with, or as a result of:
 - (i) the execution or delivery of this Agreement, any other Transaction Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or the administration (other than expenses that do not constitute out-of-pocket expenses) or enforcement thereof;
 - (ii) any Senior Secured Debt or the use or proposed use of the proceeds therefrom (including any refusal by any Senior Secured Debt Holder to honor any demand for payment under any Senior Secured Debt Instrument, as applicable, if the documents presented in connection with such demand do not strictly comply with the terms of the applicable Senior Secured Debt Instrument);
 - (iii) any actual or alleged presence, Release or threatened Release of Hazardous Materials on, from or related to the Project that could reasonably result in an Environmental Claim related in any way to the Project, the Rio Grande Facility, the Land or any property owned or operated by the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity, or any Environmental Affiliate or any liability pursuant to an Environmental Law related in any way to the

Project, the Rio Grande Facility, the Land, the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity;

- (iv) any actual or prospective claim (including Environmental Claims), litigation, investigation or proceeding relating to any of the foregoing, whether based on common law, contract, tort or any other theory, whether brought by the Borrower or any of the Borrower's members, managers or creditors or by any other Person, and regardless of whether any Indemnitee is a party thereto and whether or not any of the transactions contemplated hereunder or under any other P1 Financing Documents is consummated, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the claiming Indemnitee; or
- (v) any claim, demand or liability for broker's or finder's or placement fees or similar commissions, whether or not payable by the Borrower, alleged to have been incurred in connection with such transactions, other than any broker's or finder's fees payable to Persons engaged by any Senior Secured Debt Holder or Affiliates or Related Parties thereof;

provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and Non-Appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

- (b) To the extent that the Borrower for any reason fails to pay in full any amount required under Section 8.7 or Section 8.10(a) above or any analogous costs and expenses or indemnification provisions of any P1 Financing Document to be paid by it to the P1 Intercreditor Agent or any Related Party thereof, each Senior Secured Debt Holder severally agrees to pay to the P1 Intercreditor Agent or such Related Party, as the case may be, the ratable share of such unpaid amount (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), based on the aggregate of the Senior Secured Debt Commitments of such Senior Secured Debt Holder to the amount of all Senior Secured Debt Commitments of all Senior Secured Debt Holders; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the P1 Intercreditor Agent or the applicable Related Party, in its capacity as such. The obligations of the Senior Secured Debt Holders to make payments pursuant to this Section 8.10(b) are several and not joint and shall survive the payment in full of the Senior Secured Obligations and the termination of this Agreement. The failure of any Senior Secured Debt Holder to make payments on any date required hereunder shall not relieve any other Senior Secured Debt Holder of its corresponding obligation to do so on such date, and no Senior Secured Debt Holder shall be responsible for the failure of any other Senior Secured Debt Holder to do so.
- (c) All amounts due under this Section 8.10 shall be payable promptly after demand therefor.
- (d) The Borrower agrees that, without the Indemnitee's prior written consent, it will not settle, compromise or consent to the entry of any judgment in any pending or

threatened (in writing) claim, action or proceeding in respect of which indemnification could be sought by or on behalf of such Indemnatee under this Section 8.10 (whether or not any Indemnatee is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of such Indemnatee from all liability arising out of such claim, action or proceeding. In the event that an Indemnatee is requested or required to appear as a witness in any action brought by or on behalf of or against the Borrower or any Affiliate thereof in which such Indemnatee is not named as a defendant, the Borrower agrees to reimburse such Indemnatee for all reasonable expenses incurred by it in connection with such Indemnatee appearing and preparing to appear as such a witness, including the reasonable and documented fees and disbursements of its legal counsel. In the case of any claim brought against an Indemnatee for which the Borrower may be responsible under this Section 8.10, the Indemnatee agrees (at the expense of the Borrower) to execute such instruments and documents and cooperate as reasonably requested by the Borrower in connection with the Borrower's defense, settlement or compromise of such claim, action or proceeding.

8.11 Notices and Other Communication

- (a) Any notice, claim, request, demand, consent, designation, direction, instruction, certificate, report or other communication to be given under or in connection with this Agreement shall be given in writing and will be deemed duly given when:

- (i) personally delivered;
- (ii) sent by electronic mail (with electronic confirmation of receipt); or
- (iii) when received by overnight courier service or by certified or registered mail;

in each case addressed to a Person at its address or e-mail address as indicated in Schedule 8.11 or to such other address or e-mail address of which such Person has given notice (including, with respect to any Person acceding to this Agreement under Common Terms Accession Agreement those set out for such Person therein). Each of the Borrower, the P1 Collateral Agent, the P1 Intercreditor Agent, and any Senior Secured Debt Holder Representative may change its address, e-mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto.

- (b) Any notice to be given by or on behalf of the Borrower to any Senior Secured Debt Holder may be sent to the Senior Secured Debt Holder Representative that represents such Senior Secured Debt Holder.
- (c) The P1 Intercreditor Agent shall promptly forward to each Senior Secured Debt Holder Representative (other than itself or any Person from whom it received, or which it is aware has received, any such notice, claim, certificate, report, instrument, demand, request, direction, instruction, designation, waiver, receipt, consent or other formal written communication or document) copies of any notice, claim, certificate, report, instrument, demand, request, direction, instruction, designation, waiver, receipt, consent, or other communication or document that it receives from any other Person under or in connection with this Agreement.

- (d) The Borrower hereby agrees that it will provide to the P1 Intercreditor Agent all information, documents and other materials that it is obligated to furnish to the P1 Intercreditor Agent pursuant hereto and the other Senior Secured Debt Documents, including all notices, requests, financial statements, financial and other reports, certificates and other information materials through an electronic/soft medium in a format acceptable to the P1 Intercreditor Agent at the email addresses specified in Schedule 8.11.

8.12 Severability

If any provision of this Agreement or any other P1 Financing Document is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other P1 Financing Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.13 Survival

Notwithstanding anything in this Agreement to the contrary, Section 8.3, Section 8.7, Section 8.10, Section 8.11, this Section 8.13, Section 8.14, Section 8.15, and Section 8.17 shall survive any termination of this Agreement. In addition, each representation and warranty made hereunder shall survive the execution and delivery hereof. Such representations and warranties shall be considered to have been relied upon by each of the P1 Intercreditor Agent, any Senior Secured Debt Holder Representative or any Senior Secured Debt Holder, regardless of any investigation made by such Person or on their behalf and shall continue in full force and effect as of the date made or any date referred to herein until the Discharge Date.

8.14 Waiver of Consequential Damages, Etc.

Except with respect to any indemnification obligations of the Borrower under Section 8.10 or any other indemnification provisions of the Borrower under any other P1 Financing Document, to the fullest extent permitted by applicable Government Rule, no Party shall assert, and each Party hereby waives, any claim against any other Party or their Related Parties, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby or the transactions contemplated hereby or by any P1 Financing Document. No Party or its Related Parties shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement.

To the extent that any Party hereto may, in any action, suit or proceeding brought in any of the courts referred to in Section 8.3 or elsewhere arising out of or in connection with this Agreement or any other P1 Financing Document to which it is a party, be entitled to the benefit of any provision of law requiring any other Party hereto in such action, suit or proceeding to post security for the costs of such Person or to post a bond or to take similar action, each such Person hereby irrevocably waives such benefit, in each case to

the fullest extent now or in the future permitted under the laws of the State of New York or, as the case may be, the jurisdiction in which such court is located.

8.15 Reinstatement

This Agreement and the obligations of the Borrower hereunder shall automatically be reinstated if and to the extent that for any reason any payment made pursuant to this Agreement or any other P1 Financing Document is rescinded or must otherwise be restored or returned, whether as a result of any proceedings in bankruptcy or reorganization or otherwise with respect to the Borrower or any other Person or as a result of any settlement or compromise with any Person (including the Borrower) in respect of such payment, and the Borrower shall pay the P1 Intercreditor Agent, any Senior Secured Debt Holder Representative, any other Senior Secured Debt Holder, or any of their respective Affiliates on demand all of its reasonable costs and expenses (including reasonable fees, expenses and disbursements of counsel) incurred by such Party in connection with such rescission or restoration.

8.16 Treatment of Certain Information; Confidentiality

The P1 Intercreditor Agent agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) to its Affiliates (including branches) and to its and its Affiliates' respective directors, officers, employees, agents, advisors, auditors, service providers and representatives (provided, that the Persons to whom such disclosure is made will be informed prior to disclosure of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested or required by any regulatory authority purporting to have jurisdiction over it, (c) to the extent required by applicable Government Rule or regulations or by any subpoena or similar legal process (in which case the P1 Intercreditor Agent agrees, to the extent practicable, to use reasonable efforts to notify the Borrower prior to disclosure), (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder, under any Senior Secured Debt Instrument, or under any P1 Collateral Document or any suit, action or proceeding relating hereto or thereto or the enforcement of rights hereunder or thereunder (including any actual or prospective purchaser of Collateral), (f) to Persons permitted under the terms of the Senior Secured Debt Instruments in accordance with the terms thereof, (g) with the consent of the Borrower (not to be unreasonably withheld, conditioned or delayed), (h) to any state, federal or foreign authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating the P1 Intercreditor Agent or any of its Affiliates, (i) to any rating agency when required by it (it being understood that prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Borrower received by it from the P1 Intercreditor Agent), or (j) to any party providing (and any brokers arranging) any insurance or reinsurance or other direct or indirect credit protection (including credit default swaps) with respect to its Senior Secured Debt. For the purposes of this Section 8.16, "**Information**" means written information that is furnished by or on behalf of the Borrower, the Pledgor, the Equity Owners, or any of their respective Affiliates to the P1 Intercreditor Agent pursuant to or in connection with any P1 Financing Document, relating to the assets and business of the Borrower, the Pledgor, the Equity Owners, the RG Facility Entities, or any of their Affiliates but does not include any such information that (i) is or becomes generally available to the public other than as a result of a breach by the P1 Intercreditor Agent of its obligations hereunder, (ii) is or becomes available to P1 Intercreditor Agent from a source other than the Borrower or any of its Affiliates, or (iii) is independently compiled by the P1 Intercreditor Agent, as evidenced by their

records, without the use of the Information. Any Person required to maintain the confidentiality of Information as provided in this Section 8.16 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information, including but not limited to marking the Information with applicable confidentiality designations in accordance with applicable Government Rules or regulations prior to release.

8.17 No Recourse

The obligations of the Borrower under this Agreement, and any certificate, notice, instrument or document delivered pursuant hereto, are obligations solely of the Borrower and do not constitute a debt or obligation of (and no recourse shall be made with respect to) any direct or indirect equity holder of the Pledgor or any Equity Owner (other than to the extent of any credit support deposited by or on behalf of such equity holder or any Collateral pledged by such equity holder, in each case, in accordance with the P1 Financing Documents), any RG Facility Entity not wholly-owned by the Borrower (other than to the extent of any Collateral pledged or guarantees issued in support of the Borrower's obligations by such entity in accordance with the P1 Financing Documents), any other Liquefaction Owner (as defined in the Definitions Agreement), or any of their respective Affiliates (other than the Borrower), or any shareholder, partner, member, officer, director or employee of the Pledgor or any Equity Owner or such Affiliates (collectively, the "**Non-Recourse Parties**"). No action under or in connection with this Agreement shall be brought against any Non-Recourse Party, and no judgment for any deficiency upon the obligations hereunder shall be obtainable by the P1 Intercreditor Agent, the P1 Collateral Agent, any Senior Secured Debt Holder Representative or any Senior Secured Debt Holder against any Non-Recourse Party. Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained in this Section 8.17 shall in any manner or way (a) restrict the remedies available to the P1 Intercreditor Agent, any Senior Secured Debt Holder Representative or any Senior Secured Debt Holder to realize upon the Collateral, or constitute or be deemed to be a release of the obligations secured by (or impair the enforceability of) the Liens and the security interests and possessory rights created by or arising from any Senior Security Document or (b) release, or be deemed to release, any Non-Recourse Party from liability for its own willful misrepresentation, fraudulent actions, gross negligence or willful misconduct or from any of its obligations or liabilities under any P1 Collateral Document to which such Non-Recourse Party is a party. The limitations on recourse set forth in this Section 8.17 shall survive the Discharge Date.

8.18 Acknowledgment Regarding Any Supported QFCs

To the extent that the P1 Financing Documents provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "US Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the P1 Financing Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a US Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the US Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a US Special Resolution Regime, Default Rights under the P1 Financing Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the US Special Resolution Regime if the Supported QFC and the P1 Financing Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 8.18, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

[Remainder of page intentionally blank. Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their officers thereunto duly authorized as of the day and year first above written.

RIO GRANDE LNG, LLC,
as the Borrower

By:
Name:
Title:

[Signature Page to Common Terms Agreement]

MUFG BANK, LTD.
as the P1 Intercreditor Agent

By:
Name:
Title:

[Signature Page to Common Terms Agreement]

_____, as a Senior Secured Debt
Holder Representative

By:

Name:

Title:

[Signature Page to Common Terms Agreement]

_____, as a Senior Secured Debt
Holder Representative

By:

Name:

Title:

[Signature Page to Common Terms Agreement]

DEFINITIONS

“Additional Material Project Document” means any Project Document entered into by the Borrower with any other Person subsequent to the Closing Date that:

- (a) replaces or substitutes for an existing Material Project Document (other than any Offtake Agreement);
- (b) is a guarantee provided in favor of the Borrower by a guarantor or a counterparty, in each case, under a Material Project Document;
- (c) any Time Charter Party Agreements entered into after the Closing Date pursuant to which the Borrower maintains LNG Tanker capacity required to ship the aggregate volume of LNG subject to delivery obligations at such time pursuant to Designated Offtake Agreements that are on Delivered terms; or
- (d) except as provided in clauses (a), (b), or (c) above, contains obligations and liabilities equal to or in excess of \$100,000,000 per year and a committed term of at least eight years;

provided, that the term Additional Material Project Document shall not include (w) any Offtake Agreement that is not a Designated Offtake Agreement, and any guarantee thereof, (x) any Time Charter Party Agreement other than those referenced in the foregoing clause (c), (y) any Real Property Document, and (z) any document relating to Senior Secured Debt entered into in accordance with the P1 Financing Documents.

“Administrative Expenses” has the meaning assigned to such term in the P1 Accounts Agreement.

“Administrator” has the meaning assigned to such term in the Definitions Agreement.

“Advance” means a borrowing of a loan, issuance of or drawing upon a letter of credit, or the issuance of debt securities pursuant to any Senior Secured Debt Instrument.

“AEP Land Release” means the disposition and release from the LandCo Site Lease of that certain real property containing approximately 6.33 acres commonly known as the AEP Pompano Switchyard Tract and further described in Schedule Z.

“Affiliate” means, with respect to any Person, another Person that directly or indirectly Controls, is under common Control with or is Controlled by, such Person and, if such Person is an individual, any member of the immediate family (including parents, spouse, children and siblings) of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any Person who is Controlled by any such member or trust. Notwithstanding the foregoing, the definition of “Affiliate” shall not encompass (a) any individual solely by reason of his or her being a director, officer, manager or employee of any Person, (b) any Person solely by reason of their capacity as a Senior Secured Party, or (c) any portfolio company of an investment fund, investment trust, investment company, sovereign wealth fund, or collective investment scheme (each, a **“Fund”**) that holds indirect equity interests in a P1 Equity Guarantor or any Affiliates of such portfolio company, other than such Fund or its controlled Affiliates that collectively hold direct or indirect equity interests in such P1 Equity Guarantor.

"Affiliate Transaction" has the meaning assigned to such term in Section 5.11.

"Agreement" has the meaning assigned to such term in the Preamble.

"Annual Facility Budget" has the meaning assigned to such term in the Definitions Agreement.

"APCI License Agreement" means a technology license for Air Product and Chemicals Inc.'s Propane Mixed Refrigerant (C3MR) Split-MR™ technology.

"Asset Sale" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Authorized Officer" means: (a) with respect to any Person that is a corporation, the chairman, president, senior vice president, vice president, treasurer, assistant treasurer, attorney-in-fact, secretary, assistant secretary, or authorized signatory of such Person, (b) with respect to any Person that is a partnership, the chairman, president, senior vice president, vice president, treasurer, assistant treasurer, attorney-in-fact, secretary, assistant secretary, or authorized signatory of a general partner of such Person, and (c) with respect to any Person that is a limited liability company, the chairman, president, senior vice president, vice president, treasurer, assistant treasurer, attorney-in-fact, secretary, assistant secretary, authorized signatory, the manager, the managing member, or a duly appointed officer of such Person.

"Bankruptcy" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Base Case Forecast" means the financial projections in the form attached as Exhibit G.

"BI Proceeds" has the meaning assigned to such term in the Definitions Agreement.

"Borrower" has the meaning assigned to such term in the Preamble.

"Business Day" means any day other than a Saturday, Sunday or any other day which is a legal holiday or a day on which banking institutions are permitted to be closed in New York, New York.

"Capacity Contracting Agreement" means the Capacity Contracting Agreement, dated as of July 12, 2023, by and among the Borrower, Pipeline Manager, and the Gas Transporter.

"Capital Improvement" has the meaning assigned to such term in the Definitions Agreement.

"Capital Improvement IE Certificate" means a certificate of an Authorized Officer of the Independent Engineer certifying, with respect to any Capital Improvement Plan, (a) that such Capital Improvement Plan would, if designed, engineered, procured, constructed, installed, tied-in, tested and commissioned in accordance with the Capital Improvement Plan, result in the resulting Facilities complying with the requirements of the CFAA and (b) that the assumptions upon which such Capital Improvement Plan is based are reasonable.

"Capital Improvement Plan" has the meaning assigned to such term in the Definitions Agreement.

“Capital Lease Obligations” means, for any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) Property of such Person to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP (including Statement of Financial Accounting Standards No. 13 of the Financial Accounting Standards Board) and, for purposes of this Agreement and any applicable Senior Secured Debt Instrument, the amount of such obligations shall be the capitalized amount of such obligations, determined in accordance with GAAP (including such Statement No. 13).

“Cash Equivalents” means:

- (a) Dollars;
- (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (provided, that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than one year from the date of acquisition;
- (c) marketable general obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition thereof, having a credit rating of “A” or better from either S&P or Moody’s (or, if any of such entities cease to provide such ratings, the equivalent rating from any other Recognized Credit Rating Agency);
- (d) certificates of deposit, demand deposit accounts and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500,000,000 and a Thomson Bank Watch Rating of “B” or better;
- (e) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (b), (c), and (d) above entered into with any financial institution meeting the qualifications specified in clause (d) above;
- (f) commercial paper or tax exempt obligations having one of the two highest ratings obtainable from Moody’s or S&P (or, if any of such entities cease to provide such ratings, the equivalent rating categories from any other Recognized Credit Rating Agency) and, in each case, maturing within one year after the date of acquisition; and
- (g) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (f) of this definition or a money market fund or a qualified investment fund (including any such fund for which the P1 Accounts Bank or any Affiliate thereof acts as an advisor or a manager) given one of the two highest long-term ratings available from S&P or Moody’s (or, if any of such entities cease to provide such ratings, the equivalent rating categories from any other Recognized Credit Rating Agency).

“Cash Flow” means, for any period, the sum (without duplication) of the following:

- (a) all cash paid (or, as applicable, solely for purposes of determining Contracted Projected CFADS, projected to be paid) to the Borrower during such period in connection with the ownership or operation of the Project;
- (b) all interest and investment earnings paid to the Borrower or accrued to the P1 Accounts during such period on amounts on deposit in the P1 Accounts (excluding interest and investment earnings that accrue on the amounts on deposit in any Debt Service Reserve Account which are not transferred to the P1 Revenue Account pursuant to Section 3.14(a) (*Investment of Funds in P1 Accounts*) of the P1 Accounts Agreement); and
- (c) all cash paid (or, as applicable, solely for purposes of determining Contracted Projected CFADS, projected to be paid) to the Borrower during such period as BI Proceeds or DSU Proceeds.

provided, that Cash Flow shall not include (u) any proceeds of any Senior Secured Debt or any other Indebtedness incurred by the Borrower, (w) Loss Proceeds, (x) the proceeds of any Asset Sale that is not permitted by the P1 Financing Documents, (y) amounts received, whether by way of a capital contribution from any direct or indirect holders of Equity Interests of the Borrower (except to the extent specifically provided in a Senior Secured Debt Instrument and then solely for the purposes specified therein), or (z) any other extraordinary or non-cash income received by the Borrower under GAAP.

“CD Construction/Term Loans” means the “Construction/Term Loans”, as defined the CD Credit Agreement.

“CD Credit Agreement” means the Credit Agreement, dated as of July 12, 2023, by and among the Borrower, the P1 Administrative Agent, the P1 Collateral Agent, the CD Revolving LC Issuing Banks that are party thereto from time to time, and the CD Senior Lenders that are party thereto from time to time.

“CD Indenture Trustee” means the trustee appointed in accordance with the CD Senior Notes Indenture.

“CD Revolving LC Issuing Bank” means the “Revolving LC Issuing Bank”, as defined in the CD Credit Agreement.

“CD Revolving Lenders” means the “Revolving Lenders”, as defined in the CD Credit Agreement.

“CD Revolving Loans” means the “Revolving Loans”, as defined in the CD Credit Agreement.

“CD Senior Lenders” means the “Senior Lenders” as defined in the CD Credit Agreement.

“CD Senior Loans” means the CD Construction/Term Loans and the CD Revolving Loans.

“CD Senior Noteholders” means the “Noteholders”, as defined in the CD Senior Notes Indenture.

“CD Senior Notes” means the “Notes”, as defined in the CD Senior Notes Indenture.

"CD Senior Notes Indenture" means the Indenture, dated on or about the Closing Date, between the Borrower and Wilmington Trust, National Association, as CD Indenture Trustee, for 6.67% Senior Secured Notes due 2033.

"CFAA" means the Common Facilities Access Agreement, dated as of July 12, 2023, by and among the Borrower, NextDecade, and the RG Facility Entities.

"CFCo" means Rio Grande LNG Common Facilities LLC.

"CIA Accession Confirmation" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Closing Date" means the date hereof.

"Collateral" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Collateral and Intercreditor Agreement" means the Collateral and Intercreditor Agreement, dated as of July 12, 2023, by and among the Borrower, the P1 Intercreditor Agent, the P1 Collateral Agent, and each of the Senior Secured Creditor Representatives from time to time party thereto.

"Common Account Bank" means JPMorgan Chase Bank, N.A. or any successor to it appointed pursuant to the terms of the Common Accounts Agreement.

"Common Account Bank Fee Letter" means the Fee Letter, dated as of July 12, 2023, between the Borrower and the Common Account Bank.

"Common Accounts" has the meaning assigned to such term in the Common Accounts Agreement.

"Common Accounts Agreement" means the Common Accounts Agreement, dated as of July 12, 2023, by and among NextDecade, as the Administrator, the Borrower, CFCo, InsuranceCo, LandCo, the P1 Collateral Agent, the Common Collateral Agent and the Common Account Bank.

"Common Collateral Agent" means Mizuho Bank (USA) or any successor to it appointed pursuant to the terms of the Common Accounts Agreement.

"Common Collateral Agent Fee Letter" means the Fee Letter, dated as of July 12, 2023, between the Borrower and the Common Collateral Agent.

"Common Facilities" has the meaning assigned to such term in the Definitions Agreement.

"Common Facilities Sublease" has the meaning assigned to such term in the Definitions Agreement.

"Common Terms Accession Agreement" means an accession agreement to this Agreement entered into (or to be entered into) by any acceding Senior Secured Debt Holder Representative, substantially in the form required by [Section 2.7](#).

“Consent Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Consultants” means the Environmental Advisor, the Independent Engineer, the Insurance Advisor, the Market Consultant, and the Shipping Consultant.

“Contracted Projected CFADS” means, for any period, an amount equal to (a) the amount of Cash Flow from Contracted Revenues projected to be received by the Borrower during such period *minus* (b) all amounts projected to be paid by the Borrower during such period pursuant to Sections 3.3(c)(i) and 3.3(c)(ii) (*P1 Revenue Account*) of the P1 Accounts Agreement (other than any non-recurring fee projected to be payable to any Senior Secured Party), which amounts under this clause (b) (i) shall be (A) as set forth in the then-applicable Annual Facility Budget in respect of the periods covered thereby and (B) in respect of all other future periods, be reasonably consistent with the then-applicable Annual Facility Budget (other than extraordinary expenditures in respect of the periods covered by the Annual Facility Budget which are not reasonably expected to be payable in such future periods) and (ii) shall exclude any such amounts that (A) are related to the lifting of LNG, (B) are P1 Project Costs, RCI EPC CAPEX (as defined in the Definitions Agreement), or RCI Owners’ Costs (as defined in the Definitions Agreement), in each case, to the extent funded with Indebtedness or equity.

“Contracted Projected DSCR” means, for the applicable period, the ratio of (a) Contracted Projected CFADS to (b) Debt Service (other than (i) principal of the CD Revolving Loans and the Working Capital Debt and the principal amount of any Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees and up-front fees paid prior to the Project Completion Date or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under the Senior Secured IR Hedge Agreements, in each case, projected to be paid prior to the Project Completion Date, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, and (vi) without duplication of amounts in clause (iv), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements).

“Contracted Revenues” means, for any period, Cash Flow projected to be received by the Borrower during such period under Designated Offtake Agreements then in effect, calculated solely to reflect the price paid if no LNG is lifted under Designated Offtake Agreements **then in effect**.

“Control” (including, with its correlative meanings, **“Controlled by”** and **“under common Control with”**) means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) and, in any event, any Person owning (directly or indirectly) at least 50% of the voting securities of another Person shall be deemed to Control that Person.

“Coordinator” has the meaning assigned to such term in the Definitions Agreement.

“Covered Party” has the meaning assigned to such term in Section 8.18(a).

“Corridor Rights” means any easements and other real property interests in respect of pipeline or electrical transmission line corridors necessary for the Development.

“CTA Default” means an event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would become a CTA Event of Default.

“CTA Event of Default” means any of the events described in Article 7.

“CTA Supplemental Quantities” means, at any time, the positive difference between (a) the Borrower’s share of the Rio Grande Facility’s annual LNG production and (b) the aggregate ACQ under the Designated Offtake Agreements.

“Debt Service” means, for any period, the sum of (without duplication):

- (a) all fees scheduled to become due and payable (or, for purposes of the Historical DSCR, paid) during such period in respect of any Senior Secured Debt;
- (b) interest on the Senior Secured Obligations (taking into account any Senior Secured IR Hedge Agreements) scheduled to become due and payable (or for the purposes of the Historical DSCR (or any other measure of past financial performance in a Senior Secured Debt Instrument), paid) during such period; and
- (c) scheduled principal payments of the Senior Secured Debt (other than Working Capital Debt) to become due and payable (or, for purposes of the Historical DSCR, paid) during such period.

“Debt Service Reserve Accounts” has the meaning assigned to such term in the P1 Accounts Agreement.

“Definitions Agreement” means that certain Definitions Agreement, dated as of July 12, 2023, by and among NextDecade, the Borrower, and the RG Facility Entities.

“Delivered” refers to quantities of LNG sold “cost, insurance and freight,” “cost and freight,” “delivered ex ship,” “delivered at terminal”, or otherwise where the Borrower is responsible for the transportation of LNG to a delivery point other than at the Rio Grande Facility under the terms of the relevant Offtake Agreement.

“Designated Offtake Agreement” means each Offtake Agreement that is so-designated by the Borrower by written notice to the P1 Intercreditor Agent. As of the Closing Date, “Designated Offtake Agreement” shall include each Initial Offtake Agreement.

“Development” means the development, acquisition, ownership, occupation, construction, financing, equipping, testing, repair, operation, maintenance and use of the Project and the import and export of LNG from the Project. **“Develop”** and **“Developed”** shall have the correlative meanings.

“Discharge Date” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Discretionary Capital Improvement” has the meaning assigned to such term in the Definitions Agreement.

“Disqualified Stock” means, with respect to any Person, any capital stock of such Person that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the capital stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the capital stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any capital stock that would constitute Disqualified Stock solely because the holders of the capital stock have the right to require the Person to repurchase such capital stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such capital stock provide that the Person may not repurchase or redeem any such capital stock pursuant to such provisions unless such repurchase or redemption complies with the covenant in Section 5.11. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Person may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

“Distribution” means: (a) any dividend or other distribution by the Borrower (in cash, property of the Borrower, securities, obligations, or other property) on, or other dividends or distributions on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition by the Borrower of, any portion of any Equity Interest in the Borrower, and (b) all payments (in cash, property, securities, obligations, or other property of the Borrower) of principal of, interest on and other amounts with respect to, or other payments on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition of, any Indebtedness for borrowed money owed to the Pledgor or any Affiliate thereof or any Permitted Subordinated Debt. For the avoidance of doubt, amounts paid to the Equity Owners or their Affiliates under any commercial agreement entered into by the Equity Owners or their Affiliates permitted pursuant to the P1 Financing Documents (including any amounts payable to NextDecade under any Material Project Documents) shall not be considered Distributions.

“Distribution Account” has the meaning assigned to such term in the P1 Accounts Agreement.

“Distribution Date” means, with respect to any specific Distribution, the date such Distribution is made.

“Distribution Release Conditions” has the meaning assigned to such term in Section 5.10.

“DOE Authorization Administration Agreement” means the DOE Authorization Administration Agreement, dated as of July 12, 2023, by and between the Borrower and NextDecade, as Export Administrator.

“Dollars” or **“\$”** means the lawful currency of the United States of America.

“Dredging and Disposal Construction Agreement” means that certain Marine Dredging and Disposal Construction Agreement for the Rio Grande Natural Gas Liquefaction Facility, dated as of November 16, 2020, by and among the Borrower and Great Lakes Dredge & Dock Company, LLC, as amended by that certain First Amendment, dated as of May 5, 2021, as further amended by that certain Second Amendment, dated as of October 15, 2021, as further amended by that certain Third Amendment, dated as of December 30, 2022, and as further amended by that certain Fourth Amendment, dated as of March 29, 2023.

"DSRA Reserve Amount" has the meaning assigned to such term in the P1 Accounts Agreement.

"DSU Proceeds" has the meaning assigned to such term in the Definitions Agreement.

"Economic Terms Modification" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Environmental Advisor" means Environmental Resources Management Southwest, Inc. and any replacement thereof appointed by the Borrower with the consent of the P1 Intercreditor Agent.

"Environmental Affiliate" means any Person, to the extent the Borrower could reasonably be expected to have liability as a result of the Borrower retaining, assuming, accepting or otherwise being subject to liability for Environmental Claims relating to such Person, whether the source of the Borrower's obligation is by contract or operation of Government Rule.

"Environmental Claim" has the meaning assigned to such term in the Definitions Agreement.

"Environmental Laws" has the meaning assigned to such term in the Definitions Agreement.

"Equity Interests" means, with respect to any Person, any of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination, in each such case including all voting rights and economic rights related thereto.

"Equity Owners" means any direct or indirect holders of Equity Interests of the Borrower.

"Event of Abandonment" means any of the following shall have occurred:

- (a) the abandonment, suspension or cessation of all or a material portion of the activities related to the Development for a period in excess of sixty consecutive days (other than as a result of force majeure so long as the Borrower is diligently attempting to restart the Development); provided, that if any such abandonment, suspension, or cessation is not accompanied by a formal, public announcement by the Borrower of its intentions as set forth in clause (b) below, such abandonment, suspension, or cessation shall not have occurred unless, within 45 days following notice to the Borrower from the P1 Intercreditor Agent requesting the Borrower to deliver a certificate to the effect that it will resume construction or operation as soon as is commercially reasonable, the Borrower has not delivered such certificate or resumed such activities or, if such certificate is delivered, the Borrower has nevertheless not resumed such activities within ninety days (or 365 days if the cessation is caused by force majeure so long as the Borrower is diligently attempting to mitigate or cure such issues and has the intent to re-start
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development, construction and operation of the Project) following receipt of the notice from the P1 Intercreditor Agent;

- (b) a formal, public announcement by the Borrower of a decision to abandon or indefinitely defer or suspend the Development for any reason;
- (c) any Train Abandonment by the Borrower; or
- (d) the Borrower shall make any filing with FERC giving notice of the intent or requesting authority to abandon all or any material portion of the P1 Train Facilities and the P1 Common Facilities (as defined in the Definitions Agreement) for any reason.

“Event of Loss” means any event that causes any property constituting the Rio Grande Facility, any Facility comprising the Rio Grande Facility (including prior to the Start Date thereof) or the Land, or any portion thereof, to be damaged (other than ordinary wear and tear), destroyed or rendered unfit for normal use for any reason whatsoever, and shall also include an Event of Taking.

“Event of Taking” means any taking, seizure, confiscation, requisition, exercise of rights of eminent domain, inverse condemnation, condemnation or similar action of or proceeding by any Government Authority relating to all or any part of the Rio Grande Facility, any Facility comprising the Rio Grande Facility (including prior to the Start Date thereof) or the Land, or any portion thereof, or any other part of the Collateral.

“Extraordinary Distributions” means:

- (a) Distributions from the P1 Proceeds Account (as defined in the P1 Accounts Agreement) in accordance with Section 9.4(b)(iii) (*Performance Liquidated Damages and Termination Payments*) of the Collateral and Intercreditor Agreement and Section 3.9(e) (*P1 Proceeds Account*) of the P1 Accounts Agreement;
 - (b) Distributions from the P1 Proceeds Account (as defined in the P1 Accounts Agreement) in accordance with Section 9.5 (*Distribution of Common Facilities Proceeds*) of the Collateral and Intercreditor Agreement and Section 3.9(e) (*P1 Proceeds Account*) of the P1 Accounts Agreement;
 - (c) Distributions from the P1 Insurance Proceeds Account (as defined in the P1 Accounts Agreement) in accordance with Section 9.2(b) (*Loss Proceeds*) of the Collateral and Intercreditor Agreement and Section 3.10(d)(ii) (*P1 Insurance Proceeds Account*) of the P1 Accounts Agreement;
 - (d) Distributions from the P1 Capital Improvement Account (as defined in the P1 Accounts Agreement) in accordance with Section 3.12(b)(ii) (*P1 Capital Improvement Account*) of the P1 Accounts Agreement;
 - (e) the payment of P1 Project Costs set forth in clauses (e), (f), (g), (h), or (i) of the definition thereof (by transfer to the Distribution Account) in accordance with the P1 Accounts Agreement;
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- (f) Distributions from the P1 Pre-Completion Revenue Account (as defined in the P1 Accounts Agreement) in accordance with Section 3.2(c) (*P1 Pre-Completion Revenue Account*) of the P1 Accounts Agreement;
- (g) Distributions on the Project Completion Date in accordance with Section 3.1(f)(iii) (*P1 Construction Account*) of the P1 Accounts Agreement;
- (h) Tax Distributions in accordance with Section 3.3(c)(viii) (*P1 Revenue Account*) and Section 3.7(c)(ii) (*P1 Distribution Reserve Account*) of the P1 Accounts Agreement;
- (i) Distributions of amounts on deposit in (i) a P1 Construction Equity Collateral Account (as defined in the P1 Accounts Agreement) in accordance with Section 3.13(c) (*P1 Construction Equity Collateral Account*) of the P1 Accounts Agreement or (ii) any other account subject to an Equity Cash Collateral Arrangement (as defined in the P1 Equity Contribution Agreement) in accordance with the terms thereof;
- (j) Distributions from the P1 Distribution Reserve Account in accordance with Section 3.7(c)(i) (*P1 Distribution Reserve Account*) of the P1 Accounts Agreement;
- (k) Distributions pursuant to the proviso of Section 3.3(a) (*P1 Revenue Account*) of the P1 Accounts Agreement; and
- (l) Distributions from any Debt Service Reserve Account in accordance with Section 3.16(d) (*DSR LCs*) or Section 3.17(d) (*DSR Guaranties*) of the P1 Accounts Agreement.

“Facility” has the meaning assigned to such term in the Definitions Agreement.

“Facility Easement Agreements” has the meaning assigned to such term in the Definitions Agreement.

“Facility Subsidiary Documents” has the meaning assigned to such term in the Definitions Agreement.

“Fair Market Value” means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Borrower (unless otherwise provided in this Agreement).

“Fee Letters” means:

- (a) the Common Account Bank Fee Letter;
 - (b) the Common Collateral Agent Fee Letter;
 - (c) the P1 Accounts Bank Fee Letter;
 - (d) the P1 Collateral Agent Fee Letter; and
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(e) the P1 Intercreditor Agent Fee Letter.

"FERC" means the Federal Energy Regulatory Commission, and any successor agency.

"Fiscal Quarter" means each three-month period commencing on each of January 1, April 1, July 1, and October 1 of any Fiscal Year and ending on the next March 31, June 30, September 30, and December 31, respectively.

"Fiscal Year" means any period of twelve consecutive calendar months beginning on January 1 and ending on December 31 of each calendar year.

"Fitch" means Fitch Ratings, Ltd., or any successor to the rating agency business thereof.

"GAAP" has the meaning assigned to such term in the Definitions Agreement.

"Gas" has meaning assigned to such term in the Definitions Agreement.

"Gas Marketing Agreement" means the Gas Marketing Agreement, dated as of July 12, 2023, by and between the Borrower, the Marketer, and NextDecade, as Coordinator.

"Gas Supply Letter Agreement" means the Letter Agreement, dated as of July 12, 2023, by and between the Borrower and the Pipeline Manager.

"Gas Transportation Agreements" means each Phase 1 FSA (as defined in the Capacity Contracting Agreement) to be entered into by the Borrower and the Gas Transporter in accordance with the Capacity Contracting Agreement.

"Gas Transporter" means Rio Bravo Pipeline Company, LLC.

"Government Approval" means (a) any authorization, consent, approval, license, lease, ruling, permit, tariff, rate, certification, waiver, exemption, filing, variance, claim, order, judgment or decree of, by or with, (b) any required notice to, (c) any declaration of or with, or (d) any registration by or with any Government Authority.

"Government Authority" means any supra-national, federal, state or local government or political subdivision thereof or quasi-government or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government (including any central bank) and having jurisdiction over the Person or matters in question.

"Government Rule" means any statute, law, regulation, ordinance, rule, judgment, order, decree, directive, requirement of, or other governmental restriction or any similar binding form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Government Authority, including all common law, which is applicable to any Person, whether now or hereafter in effect.

"Guarantee" means a guarantee, an endorsement, a contingent agreement to purchase or to furnish funds for the payment or maintenance of, or otherwise to be or become contingently liable under or with respect to, the Indebtedness, other obligations, net worth, working capital or earnings of any Person, or a guarantee of the payment of dividends or other distributions upon the stock or Equity Interests of any Person, or an agreement to purchase, sell, or lease (as lessee or lessor) Property of any Person, products, materials, supplies, or services primarily for the

purpose of enabling a debtor to make payment of his, her or its obligations or an agreement to assure a creditor against loss, and including causing a bank or other financial institution to issue a letter of credit or other similar instrument for the benefit of another Person, but excluding (a) endorsements for collection or deposit in the ordinary course of business and (b) customary non-financial indemnity or hold harmless provisions included in contracts entered into in the ordinary course of business. The terms “**Guarantee**” and “**Guaranteed**” used as verbs shall have correlative meanings.

“**Hazardous Material**” has the meaning assigned to such term in the Definitions Agreement.

“**Hedge Agreement**” means any agreement in respect of any interest rate, swap, forward rate transaction, commodity swap, commodity option, commodity future, interest rate option, interest rate or commodity cap, interest rate or commodity collar transaction, currency swap agreement, currency future or option contract, or other similar agreements providing for any swap, cap, collar, put, call, floor, future, option, forward, or other similar transaction or arrangement (or any combination of the foregoing), in each case settled by reference to one or more rates, currencies, commodities, prices or indices, whether entered into for the purposes of hedging or mitigating risk associated with a Person’s business operations or for speculative purposes (other than a Senior Secured Debt Instrument in respect of Senior Secured Debt bearing interest at a fixed rate).

“**Historical CFADS**” means, for any period, an amount equal to (a) the amount of Cash Flow during such period ~~minus~~ (b) all amounts paid during such period pursuant to Sections 3.3(c)(i) and 3.3(c)(ii) (*P1 Revenue Account*) of the P1 Accounts Agreement (other than any non-recurring fee paid to any Senior Secured Party) which amounts under this clause (b) shall exclude any such amounts that are P1 Project Costs, RCI EPC CAPEX (as defined in the Definitions Agreement), or RCI Owners’ Costs (as defined in the Definitions Agreement), in each case, to the extent funded with Indebtedness or equity.

“**Historical DSCR**” means, as at the end of each Fiscal Quarter (subject to the proviso below), the ratio of (a) Historical CFADS for the preceding four Fiscal Quarter period to (b) the aggregate amount of Debt Service (other than (i) principal of the CD Revolving Loans and Working Capital Debt and the principal amount of any Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees, and up-front fees paid prior to the Project Completion Date or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under the Senior Secured IR Hedge Agreements, in each case, paid prior to the Project Completion Date, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, (vi) without duplication of amounts in clause (v), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements, and (vii) any Debt Service paid using amounts on deposit in a Debt Service Reserve Account) paid or payable during the preceding four Fiscal Quarter period; provided, that for any Historical DSCR calculation performed prior to the first anniversary of the Initial Principal Payment Date, the calculation will be based on the number of Fiscal Quarters elapsed since the Initial Principal Payment Date.

“**Holders**” of any Senior Secured Debt shall be determined by reference to provisions of the relevant Senior Secured Debt Instrument setting forth who shall be deemed to be lenders, holders or owners of the Senior Secured Debt governed thereby.

“**Impairment**” means, with respect to any Material Project Document, any P1 Financing Document, or any Government Approval:

- (a) the rescission, revocation, staying, withdrawal, early termination, cancellation, repeal or invalidity thereof or otherwise ceasing to be in full force and effect;
- (b) the suspension or injunction thereof; or
- (c) in the case of a Government Approval, the inability to satisfy in a timely manner stated conditions to effectiveness thereof.

The verb **"Impair"** shall have a correlative meaning. The adjective **"Impaired"** shall have a correlative meaning.

"Indebtedness" of any Person means, without duplication:

- (a) all obligations of such Person for borrowed money;
 - (b) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements, or similar instruments;
 - (c) all obligations of such Person upon which interest charges are customarily paid;
 - (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property or are otherwise limited in recourse);
 - (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business);
 - (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed;
 - (g) all Guarantees by such Person of Indebtedness of others;
 - (h) all Capital Lease Obligations of such Person;
 - (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit (including standby and commercial), bank guaranties, surety bonds, letters of guaranty and similar instruments;
 - (j) all obligations of such Person in respect of any Hedge Agreement;
 - (k) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances; and
 - (l) all obligations of such Person to purchase, redeem, retire, defease, or otherwise make any payment in respect of any Equity Interests of such Person or any other Person or any warrants, rights or options to acquire such Equity Interests, valued,
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in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends.

The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnatee" has the meaning assigned to such term in Section 8.10(a).

"Independent Engineer" means Lummus Consultants International LLC and any replacement thereof appointed by the Borrower with the consent of the P1 Intercreditor Agent.

"Information" has the meaning assigned to such term in Section 8.16.

"Initial Offtake Agreement" means each of the following:

- (a) LNG Sale and Purchase Agreement, dated as of July 5, 2022, by and between the Borrower and China Gas Hongda Energy Trading Co., Ltd. ("**China Gas**"), as amended by that certain letter agreement dated December 21, 2022, by and between the Borrower and China Gas, as further amended by that certain letter agreement dated March 3, 2023, from China Gas to the Borrower, as further amended by that certain letter agreement dated April 3, 2023, by and between the Borrower and China Gas, and as further amended by that certain Amendment No. 1 to LNG Sale and Purchase Agreement, dated as of June 26, 2023, by and between the Borrower and China Gas;
 - (b) LNG Sale and Purchase Agreement, dated as of April 14, 2022, by and between the Borrower and Engie S.A. ("**Engie**"), as amended by that certain letter agreement dated April 29, 2022, from Engie to the Borrower, as further amended by that certain letter agreement dated December 28, 2022, from Engie to the Borrower, as further amended by that certain letter agreement dated January 4, 2023, from Engie to the Borrower, as further amended by that certain letter agreement dated March 1, 2023, from Engie to the Borrower, as further amended by that certain letter agreement dated April 6, 2023, from Engie to the Borrower, and as further amended by that certain Amendment No. 1 to LNG Sale and Purchase Agreement, dated as of June 16, 2023, by and between the Borrower and Engie;
 - (c) Amended and Restated LNG Sale and Purchase Agreement, dated as of December 23, 2022, by and between the Borrower and ENN LNG (Singapore) Pte. Ltd. ("**ENN**"), as amended by that certain letter agreement dated December 30, 2022, from ENN to the Borrower, as further amended by that certain letter agreement dated March 6, 2023, from ENN to the Borrower, as further amended by that certain letter agreement dated April 10, 2023, from ENN to the Borrower, and as amended by that certain Amendment No. 1 to Amended and Restated LNG Sale and Purchase Agreement, dated as of June 21, 2023, by and between the Borrower and ENN;
 - (d) LNG Sale and Purchase Agreement, dated as of July 27, 2022, by and between the Borrower and ExxonMobil Asia Pacific Pte. Ltd. ("**ExxonMobil**"), as
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amended by that certain letter agreement dated December 21, 2022 by and between the Borrower and ExxonMobil, as further amended by that certain letter agreement dated February 28, 2023 by and between the Borrower and ExxonMobil, as further amended by that certain letter agreement dated March 31, 2023 by and between the Borrower and ExxonMobil, as further amended by that certain Fourth Amendment to LNG Sale and Purchase Agreement, dated as of June 19, 2023, by and between the Borrower and ExxonMobil, and as further amended by that certain Fifth Amendment to LNG Sale and Purchase Agreement, dated as of June 28, 2023, by and between the Borrower and ExxonMobil;

- (e) LNG Sale and Purchase Agreement, dated as of December 19, 2022, by and between the Borrower and Galp Trading S.A. ("**Galp**"), as amended by that certain letter agreement dated April 17, 2023, from Galp to the Borrower, and as further amended by that certain Amendment No. 1 to LNG Sale and Purchase Agreement, dated as of June 28, 2023, by and between the Borrower and Galp;
- (f) LNG Sale and Purchase Agreement, dated as of June 30, 2022, by and among the Borrower, Guangdong Energy Group Natural Gas Co., Ltd. ("**GEGG**"), and Guangdong Energy Group Co., Ltd. ("**GEG**"), as amended by that certain letter agreement dated December 28, 2022, from GEGG to the Borrower, and as further amended by that certain Amendment No. 1 to LNG Sale and Purchase Agreement, dated as of June 28, 2023, by and among the Borrower, GEGG, and GEG;
- (g) LNG Sale and Purchase Agreement, dated as of January 19, 2023, by and between the Borrower and Itochu Corporation;
- (h) Second Amended and Restated LNG Sale and Purchase Agreement, dated as of June 20, 2023, by and between the Borrower and Shell NA LNG LLC; and
- (i) LNG Sale and Purchase Agreement, dated as of June 13, 2023, by and between the Borrower and TotalEnergies Gas & Power North America, Inc.

"Initial Principal Payment Date" means the first Quarterly Payment Date to occur on or after the date that is ninety days following the Project Completion Date.

"Initial Time Charter Party Agreements" means:

- (a) Time Charter Party, dated as of January 31, 2023, by and between the Borrower and Fareastern Shipping Limited;
 - (b) Time Charter Party, dated as of January 31, 2023, by and between the Borrower and Pegasus Shipholding S.A.;
 - (c) Time Charter Party, dated as of January 31, 2023, by and between the Borrower and Thaleia Shipping Limited;
 - (d) Time Charter Party, dated as of January 31, 2023, by and between the Borrower and Melpomeni Shipping Limited; and
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(e) Time Charter Party, dated as of January 31, 2023, by and between the Borrower and Erato Shipping Limited.

"Insurance Advisor" means Aon Risk Consultants, Inc. and any replacement thereof appointed by the Borrower with the consent of the P1 Intercreditor Agent.

"Insurance Program" means the insurance requirements set forth on Exhibit E (*Insurance Requirements*) to the CFAA.

"InsuranceCo" means Rio Grande LNG InsuranceCo, LLC, a Delaware limited liability company.

"Investment" means, for any Person:

- (a) the acquisition (whether for cash, Property of such Person, services or securities or otherwise) of capital stock, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person or any agreement to make any such acquisition (including any "short sale" or any other sale of any securities at a time when such securities are not owned by the Person entering into such sale);
- (b) the making of any deposit with, or advance, loan or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person, but excluding any such advance, loan or extension of credit having a term not exceeding ninety days representing the purchase price of inventory or supplies sold in the ordinary course of business); and
- (c) the entering into of any Guarantee of, or other contingent obligation (other than an indemnity which is not a Guarantee) with respect to, Indebtedness or other liability of any other Person.

"Knowledge" means, with respect to the Borrower, the actual knowledge of any Person holding any of the positions at NextDecade (or successor positions to any such positions) set forth in Schedule X; provided, that each such Person shall be deemed to have knowledge of all events, conditions and circumstances described in any notice delivered to the Borrower pursuant to the terms of this Agreement or any other P1 Financing Document.

"Land" means the land underlying the Site and the land subject to Corridor Rights.

"LandCo" means Rio Grande LNG LandCo, LLC.

"LandCo Site Lease" has the meaning assigned to such term in the Definitions Agreement.

"LC Costs" means LC Loans incurred under any Working Capital Debt that if paid by the Borrower directly would have constituted Additional Operating Costs (as defined in the P1 Accounts Agreement) or Administrative Expenses (and the repayment of, or reimbursement for, such LC Loans pursuant to such Working Capital Debt).

“LC Loan” means the “Revolving LC Loan” under the CD Credit Agreement or the meaning given to such term in any Senior Secured Debt Instrument governing Working Capital Debt entered into from time to time.

“Lease Agreements” means LandCo Site Lease, Common Facilities Sublease, and P1 Sublease.

“Lien” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Lifting and Scheduling Agreement” means the Lifting and Scheduling Agreement, dated as of July 12, 2023, by and between the Borrower and NextDecade, as Operator and Coordinator.

“LNG” has the meaning assigned to such term in the Definitions Agreement.

“LNG Marketing Services Agreement” means the Marketing Services Agreement, dated as of July 12, 2023, by and between the Borrower and NextDecade.

“LNG Tanker” means a ship used to transport LNG.

“Loss Proceeds” has the meaning assigned to such term in the Definitions Agreement.

“Mandatory Capital Improvement” has the meaning assigned to such term in the CFAA.

“Market Consultant” means Wood Mackenzie, Inc. and any replacement thereof appointed by the Borrower with the consent of the P1 Intercreditor Agent.

“Marketer” means Rio Grande LNG Gas Marketing LLC.

“Material Adverse Effect” means a material adverse effect on (a) the financial condition and results of operations of the Borrower, (b) the ability of the Borrower or any RG Facility Entity, to perform its material obligations under any Material Project Document then in effect and to which it is a party, (c) the ability of the Borrower to perform its material obligations under the P1 Financing Documents then in effect and to which it is a party, (d) the Borrower’s ability to pay its Senior Secured Obligations when due, and (e) the security interests of the Senior Secured Parties, taken as a whole.

“Material Government Approval” means any material Government Approval that is required for the development, acquisition, ownership, occupation, financing, equipping, testing, repair, use, construction, commissioning, operation, and maintenance of the Project and for the export of LNG from the Rio Grande Facility.

“Material Project Documents” means:

- (a) each Designated Offtake Agreement;
 - (b) the P1 CASA;
 - (c) the P1 EPC Contracts;
 - (d) the P1 EPC Parent Guarantees;
 - (e) the RG Facility Agreements;
-

- (f) the Real Property Documents;
- (g) other than with respect to the obligations of the Borrower thereunder (for which purpose it shall be deemed a P1 Financing Document), the Common Accounts Agreement;
- (h) the Initial Time Charter Party Agreements;
- (i) the Dredging and Disposal Construction Agreement;
- (j) at any time prior to the termination thereof in accordance with Section 12(a)(ii) ~~Termination~~ thereof, the Capacity Contracting Agreement;
- (k) the APCI License Agreement (upon assignment thereof to the Borrower);
- (l) each Gas Transportation Agreement (upon execution thereof);
- (m) the Gas Supply Letter Agreement;
- (n) any Additional Material Project Document;
- (o) any guaranty required to be provided by any counterparty under any of the foregoing; and
- (p) any agreement replacing or in substitution of any of the foregoing.

“Maturity Date” means, with respect to any Senior Secured Debt, the date on which the principal amount of such Senior Secured Debt becomes due in accordance with the terms of the applicable Senior Secured Debt Instrument.

“Moody’s” has the meaning assigned to such term in the Definitions Agreement.

“NextDecade” means NextDecade LNG, LLC, a Delaware limited liability company.

“Non-Appealable” means, with respect to any specified time period allowing a request for rehearing to the applicable Government Authority or an appeal to a court having jurisdiction of any Government Approval or any ruling under any Government Rule, as applicable, that such specified time period has either elapsed without a request for rehearing to the applicable Government Authority or appeal to a court having jurisdiction having been brought or, if such a rehearing or appeal was brought during such time period, such rehearing or appeal has been denied.

“Non-Recourse Party” has the meaning assigned to such term in Section 8.17.

“Notes” means the promissory notes issued by the Borrower evidencing the Advances, as they may be amended, restated, supplemented or otherwise modified from time to time.

“O&M Agreement” means the Operating and Maintenance Agreement, dated as of July 12, 2023, by and among the Borrower, CFCo, InsuranceCo, LandCo, and NextDecade, as Operator.

“Offsetting Transaction” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Offtake Agreement” means any contract entered into by the Borrower for the purchase and sale of either liquefaction capacity at the Rio Grande Facility or LNG from the Rio Grande Facility.

“Operating Costs” has the meaning assigned to such term in the Definitions Agreement.

“Operator” has the meaning assigned to such term in the Definitions Agreement.

“Other Permitted Hedges” means any Hedge Agreement that the Borrower enters into to hedge risks of any commercial nature that is not a Senior Secured Hedge Agreement.

“P1 Accounts” has the meaning assigned to such term in the P1 Accounts Agreement.

“P1 Accounts Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“P1 Accounts Bank” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“P1 Accounts Bank Fee Letter” means the J.P. Morgan Account Bank Services Schedule for Fees for Rio Grande LNG, LLC, dated as of June, 2023, between the Borrower and the P1 Accounts Bank.

“P1 Administrative Agent” means the administrative agent appointed in accordance with the CD Credit Agreement.

“P1 CASA” means the Construction Advisory Services Agreement, dated as of July 12, 2023, by and between the Borrower and NextDecade, as CASA Advisor.

“P1 Collateral Agent” means Mizuho Bank (USA), or any successor to it appointed pursuant to the terms of the Collateral and Intercreditor Agreement.

“P1 Collateral Agent Fee Letter” means the Fee Letter, dated as of July 12, 2023, between the Borrower and the P1 Collateral Agent.

“P1 Collateral Documents” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“P1 Common Facilities Contribution Agreement” means the P1 Common Facilities Contribution Agreement, dated as of July 12, 2023, by and between the Borrower and CFCo.

“P1 Distribution Reserve Account” has the meaning assigned to such term in the P1 Accounts Agreement.

“P1 EPC Contractor” means Bechtel Energy Inc.

“P1 EPC Contracts” means, individually or collectively, as context may require, (a) the T1/T2 EPC Contract and (b) the T3 EPC Contract.

“P1 EPC Guarantor” means Bechtel Global Energy, Inc.

“P1 EPC Parent Guarantees” means, collectively (a) with respect to the T1/T2 EPC Contract, the Parent Guarantee, dated as of September 14, 2022, by the P1 EPC Guarantor, in favor of the Borrower and (b) with respect to the T3 EPC Contract, the Parent Guarantee, dated as of September 15, 2022, by the P1 EPC Guarantor, in favor of the Borrower.

“P1 Equity Contribution Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“P1 Equity Guarantor” means any Person, as of any date of determination, that is a guarantor pursuant to any Equity Guaranty (as defined in the P1 Equity Contribution Agreement) delivered and outstanding as of such date pursuant to the P1 Equity Contribution Agreement.

“P1 Financing Documents” means each of:

- (a) this Agreement;
- (b) each Senior Secured Debt Instrument;
- (c) each Senior Secured Hedge Agreement;
- (d) the Collateral and Intercreditor Agreement;
- (e) each Senior Security Document;
- (f) each Subordination Agreement;
- (g) the P1 Equity Contribution Agreement;
- (h) the Common Accounts Agreement (with respect to the obligations of the Borrower);
- (i) the Notes;
- (j) the Fee Letters;
- (k) the other financing and security agreements, documents and instruments delivered in connection with this Agreement; and
- (l) each other document designated as a P1 Financing Document by the Borrower and the P1 Intercreditor Agent.

“P1 Hedge Termination Amount” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“P1 Intercreditor Agent” means MUFG Bank, Ltd., or any successor to it, appointed pursuant to the terms of the Collateral and Intercreditor Agreement.

"P1 Intercreditor Agent Fee Letter" means the P1 Intercreditor Agent and P1 Administrative Agent Fee Letter, dated as of July 12, 2023, between the Borrower and the P1 Intercreditor Agent.

"P1 IR Hedge Termination Amount" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"P1 Project Costs" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Revenue Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Sublease" means that certain Sublease Agreement, dated as of the date hereof, by and between the Borrower and LandCo.

"P1 Train Facilities" means the first, second, and third natural gas liquefaction production trains to commence construction at the Rio Grande Facility (as further described in Part II, III, and IV of Exhibit A to the CFAA).

"Party" or **"Parties"** has the meaning assigned to such term in the Preamble.

"Permitted Business" means (a) the development, construction, operation, expansion, reconstruction, debottlenecking, improvement, and maintenance, and ownership of the Project or related to or using by-products of the Project, all activity reasonably necessary or undertaken in connection with the foregoing and any activities incidental or related to any of the foregoing, including, the development, construction, operation, maintenance, and financing, and ownership of any facilities reasonably related to the Project or related to or using by-products of the Project, (b) the selling of natural gas liquefaction or LNG regasification services, or (c) the buying, selling, storing, and transportation of hydrocarbons for use in connection with the Project or related to or using by-products of the Project.

"Permitted Capital Improvements" means any Mandatory Capital Improvement or any Discretionary Capital Improvement, in each case, for which either (a) the Independent Engineer has provided a Capital Improvement IE Certificate or (b) if the Independent Engineer is not willing to provide a Capital Improvement IE Certificate, the Capital Improvement Plan for such Permitted Capital Improvements has been selected pursuant to the resolution process set forth in Section 14.3.8 (*Capital Improvements Generally*) of the CFAA.

"Permitted Indebtedness" means:

- (a) Senior Secured Debt and all other Senior Secured Obligations, including all Indebtedness under Senior Secured Hedge Agreements;
 - (b) Indebtedness expressly contemplated by a Material Project Document;
 - (c) purchase money Indebtedness or Capital Lease Obligations to the extent incurred in the ordinary course of business to finance the acquisition or licensing of intellectual property or items of equipment; provided, that (i) if such obligations are secured, they are secured only by Liens upon the equipment or intellectual property being financed and (ii) the aggregate principal amount and the capitalized portion of such obligations do not at any time exceed \$100,000,000 in the aggregate;
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- (d) Permitted Subordinated Debt;
- (e) trade or other similar Indebtedness incurred in the ordinary course of business, which is (i) not more than ninety days past due or (ii) being contested in good faith and by appropriate proceedings;
- (f) contingent liabilities incurred in the ordinary course of business, including the acquisition or sale of goods, services, supplies or merchandise in the ordinary course of business, the endorsement of negotiable instruments received in the ordinary course of business and indemnities provided under any of the Transaction Documents;
- (g) any obligations of the Borrower under any Other Permitted Hedges;
- (h) to the extent constituting Indebtedness, indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course or other cash management services in the ordinary course of business;
- (i) to the extent constituting Indebtedness, obligations in respect of performance bonds, bid bonds, appeal bonds, surety bonds, indemnification obligations, obligations to pay insurance premiums, take-or-pay obligations contained in supply or transportation agreements and similar obligations incurred in the ordinary course of business;
- (j) Indebtedness in respect of any bankers' acceptance, letter of credit, warehouse receipt or similar facilities entered into in the ordinary course of business;
- (k) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts;
- (l) Indebtedness in respect of an obligation to pay future insurance premiums on insurance policies required by the Insurance Program (i) within three years of the incurrence of such Indebtedness or (ii) otherwise in customary amounts consistent with the operations and business of the Rio Grande Facility in the ordinary course of business;
- (m) unsecured Indebtedness in an aggregate amount not to exceed \$400,000,000 to finance Permitted Capital Improvements;
- (n) Indebtedness in an aggregate principal amount not to exceed \$250,000,000 to finance the Restoration of the Project following an Event of Loss or an Event of Taking; and
- (o) other unsecured Indebtedness in aggregate principal amount not to exceed \$200,000,000.

"Permitted Investments" has the meaning assigned to such term in the P1 Accounts Agreement.

"Permitted Liens" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Permitted Subordinated Debt" means any unsecured Indebtedness of the Borrower for borrowed money that is fully subordinated to the Senior Secured Obligations and to the rights of the Senior Secured Parties pursuant to a Subordination Agreement; provided, that: (a) no interest payments shall be made under such subordinated debt except from monies held in the P1 Distribution Reserve Account that are permitted to be distributed pursuant to the P1 Accounts Agreement or by the extension of principal of such subordinated debt as payment in kind for such interest and (b) all rights of the Holders of the Permitted Subordinated Debt are assigned as Collateral to the Senior Secured Parties pursuant to a Pledge of Subordinated Debt Agreement.

"Person" means any individual, corporation, company, voluntary association, partnership, joint venture, trust, limited liability company, unincorporated organization or Government Authority.

"Pipeline Manager" means Rio Grande LNG Gas Supply LLC.

"Pledge of Subordinated Debt Agreement" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Pledgor" means Rio Grande LNG Holdings, LLC, a Delaware limited liability company.

"Precedent Agreement Administration Agreement" means the Precedent Agreement Administration Agreement, dated as of July 12, 2023, by and between the Borrower, the Pipeline Manager, and NextDecade, as Coordinator.

"Project" has the meaning assigned to such term in the Recitals. For avoidance of doubt, the Project does not include any carbon capture and sequestration system under consideration in connection with the design of the Rio Grande Facility.

"Project Completion Date" means the date when the Independent Engineer shall have certified in writing to the P1 Intercreditor Agent that Ready for Start Up (as defined in the P1 EPC Contracts) and Substantial Completion of the Rio Grande Facility has occurred; provided, that for so long as any loans remain outstanding under the CD Credit Agreement, the Project Completion Date shall be the date when the P1 Administrative Agent additionally shall have confirmed in writing to the P1 Intercreditor Agent that the Term Conversion Date (as defined in the CD Credit Agreement) has occurred.

"Project Documents" means each Material Project Document and any other agreement relating to the Development.

"Projected Principal Amount" means the projected amount of all then-outstanding Senior Secured Debt based on the notional amortization thereof, but giving effect to any prepayments.

"Property" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"QFC Credit Support" has the meaning assigned to such term in Section 8.18.

"Quarterly Payment Date" means each March 31, June 30, September 30, and December 31 that occurs after the Closing Date.

"Real Property Documents" means any material contract or agreement constituting or creating an estate or interest in any portion of the Site, including the Lease Agreements and the Facility Easement Agreements.

"Recognized Credit Rating Agency" means Moody's, S&P, Fitch, or any other nationally recognized statistical rating organization identified as such by the U.S. Securities Exchange Commission or such other nationally recognized rating agency as approved by the P1 Intercreditor Agent (on behalf of the Senior Secured Parties) in its reasonable judgment.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the shareholders, members, partners, directors, officers, employees, agents, and advisors of such Person and of such Person's Affiliates.

"Release" has the meaning assigned to such term in the Definitions Agreement.

"Relevering Debt" has the meaning assigned to such term in Section 2.5(a).

"Replacement Assets" means (a) non-current assets that will be used or useful in a Permitted Business or (b) substantially all the assets of a Permitted Business or a majority of the voting stock of any Person engaged in a Permitted Business.

"Replacement Debt" has the meaning assigned to such term in Section 2.4(a).

"Required Senior Secured Debt Holders" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Reservations" means the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court, the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, re-organization, court schemes, moratorium, administration and other laws generally affecting the rights of creditors, the time barring of claims under any legislation relating to limitation of claims, the possibility that an undertaking to assume liability for or to indemnify a Person against non-payment of stamp duty may be void, defenses of set-off or counterclaim and similar principles, in each case both under New York law and the laws of other applicable jurisdictions.

"Restore" has the meaning assigned to such term in the Definitions Agreement. The terms **"Restored"** and **"Restoration"** have correlative meanings.

"RG Facility Agreements" means the Facility Subsidiary Documents, the CFAA, the Definitions Agreement, the DOE Authorization Administration Agreement, the Lifting and Scheduling Agreement, the O&M Agreement, the Facility Easement Agreements, the P1 Common Facilities Contribution Agreement, the Gas Marketing Agreement, the Precedent Agreement Administration Agreement, the LNG Marketing Services Agreement, and the Vessel Coordination Agreement.

"RG Facility Entities" means, collectively, CFCo, LandCo, and InsuranceCo.

"Rio Grande Facility" has the meaning assigned to such term in the Definitions Agreement.

"S&P" has the meaning assigned to such term in the Definitions Agreement.

"Senior Secured Debt" means all: (a) CD Senior Loans, (b) TCF Senior Loans, (c) Indebtedness under the CD Senior Notes, (d) Working Capital Debt, (e) Replacement Debt, (f) Rellevering Debt, and (g) Supplemental Debt.

“Senior Secured Debt Commitments” means, at any time, the aggregate of any principal amount that Senior Secured Debt Holders are committed to disburse or stated amount of letters of credit that Senior Secured Debt Holders are required to issue, in each case under any Senior Secured Debt Instrument.

“Senior Secured Debt Documents” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Debt Holder” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Debt Holder Representative” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Debt Instrument” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Hedge Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured IR Hedge Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Obligations” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Party” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Security Documents” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Shipping Consultant” means Poten & Partners, Inc. and any replacement thereof appointed by the Borrower with the consent of the P1 Intercreditor Agent.

“Site” means all parcels of real property, upon or through which any portion of the Project is or will be located, including those portions of the Project constituting Corridor Rights, all as more particularly described or shown on Schedule Y.

“Sponsor” means NextDecade LNG, LLC, a Delaware limited liability company.

“Start Date” has the meaning assigned to such term in the Definitions Agreement.

“Subordination Agreement” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Substantial Completion” means, individually or collectively, as the context may require, (a) T1 Substantial Completion, (b) T2 Substantial Completion, and (c) T3 Substantial Completion.

“Supplemental Debt” has the meaning assigned to such term in Section 2.6(a).

“Supported QFC” has the meaning assigned to such term in Section 8.18.

“T1/T2 EPC Contract” means that certain Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, by and between the Borrower and P1 EPC Contractor, dated as of September 14, 2022, as amended by that certain First Amendment to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, by and between the Borrower and P1 EPC Contractor, dated as of March 15, 2023, as further amended by that certain Second Amendment to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Trains 1 and 2 of the Rio Grande Natural Gas Liquefaction Facility, by and between the Borrower and P1 EPC Contractor, dated as of May 18, 2023, as further revised by Change Order No. EC00062_Rev.1/SC0058_Rev.1, dated May 18, 2023, Change Order No. EC00088/SC0068, dated June 28, 2023 and Change Order No. EC00095/SC0069, dated June 30, 2023.

“T1 Substantial Completion” means “Substantial Completion” with respect to “Train 1”, as defined in the T1/T2 EPC Contract.

“T2 Substantial Completion” means “Substantial Completion” with respect to “Train 2”, as defined in the T1/T2 EPC Contract.

“T3 EPC Contract” means that certain Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, by and between the Borrower and P1 EPC Contractor, dated as of September 15, 2022, as amended by that certain First Amendment to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, dated as of December 22, 2022, as further amended by that certain Second Amendment to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, by and between the Borrower and P1 EPC Contractor, dated as of March 15, 2023, and as further amended by that certain Third Amendment to the Amended and Restated Fixed Price Turnkey Agreement for the Engineering, Procurement and Construction of Train 3 of the Rio Grande Natural Gas Liquefaction Facility, by and between the Borrower and P1 EPC Contractor, dated as of May 18, 2023, as further revised by Change Order No. EC00063_Rev.1/SCT3017_Rev.1, dated May 18, 2023, Change Order No. EC00089/SCT3023, dated June 28, 2023, and Change Order No. EC00096/SCT3024, dated June 30, 2023.

“T3 Substantial Completion” means “Substantial Completion” with respect to “Train 3”, as defined in the T3 EPC Contract.

“Taxes” means all taxes, assessments, imposts, duties, deductions, withholding, fees or other governmental charges or levies imposed by any Government Authority, including any interest, additions to tax or penalties applicable thereto. **“Tax”** shall have a correlative meaning.

“TCF Administrative Agent” means the administrative agent appointed in accordance with the TCF Credit Agreement.

“TCF Credit Agreement” means the Credit Agreement, dated as of July 12, 2023, by and among the Borrower, the TCF Administrative Agent, the P1 Collateral Agent, and the TCF Senior Lenders that are party thereto from time to time.

“TCF Senior Lenders” means the “Senior Lenders” as defined in the TCF Credit Agreement.

“TCF Senior Loans” means the “Construction/Term Loans”, as defined the TCF Credit Agreement.

“Time Charter Party Agreement” means (a) the Initial Time Charter Party Agreements and (b) any other voyage or time charter party agreement for an LNG Tanker entered into by the Borrower acting in its capacity as charterer of such LNG Tanker.

“Train Abandonment” has the meaning assigned to such term in the Definitions Agreement.

“Transaction Documents” means, collectively, the P1 Financing Documents and the Material Project Documents.

“Transfer Accession Agreement” means an accession agreement substantively in the form set out in Exhibit B in respect of any Senior Secured Debt Holder Representative.

“Uniform Commercial Code” or **“UCC”** means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, that in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of the security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term **“UCC”** shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of provisions relating to such perfection or priority and for purposes of definitions related to such provisions.

“United States” or **“U.S.”** means the United States of America.

“US Special Resolution Regimes” has the meaning assigned to such term in **Section 8.18**.

“Vessel Coordination Agreement” means the Vessel Coordination Agreement, dated as of July 12, 2023, by and between the Borrower and NextDecade.

“Voting Interests” means capital shares in any Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of or appoint directors or managers (or persons performing similar functions), of such Person, even if the right so to vote, appoint or Control has been suspended by the happening of such a contingency.

“Working Capital Debt” has the meaning assigned to such term in Section 2.3(a).

CREDIT AGREEMENT

dated as of December 28, 2023

among

RIO GRANDE LNG, LLC,
as the Borrower,

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as the Administrative Agent,

MIZUHO BANK (USA),
as the P1 Collateral Agent, and

THE SENIOR LENDERS PARTY TO THIS AGREEMENT FROM TIME TO TIME

TABLE OF CONTENTS

Page		
1.	DEFINITIONS AND INTERPRETATION	2
	1.1. Defined Terms	2
	1.2. Principles of Interpretation	3
	1.3. UCC Terms	3
	1.4. Accounting and Financial Determinations	3
	1.5. Divisions	3
2.	LOAN COMMITMENTS AND BORROWING	4
	2.1. Senior Loan Commitments	4
	2.2. Notice of Senior Loan Borrowing	4
	2.3. Borrowing of Senior Loans	4
	2.4. Termination, Reduction, and Reallocation of Senior Loan Commitments	5
	2.5. Account of Senior Loans; Register	5
3.	REPAYMENTS, PREPAYMENTS, INTEREST AND FEES	6
	3.1. Repayments of Senior Loan Borrowings	6
	3.2. Interest Payment Dates	6
	3.3. Interest Rate	7
	3.4. Post-Maturity Interest Rates; Default Interest Rates	7
	3.5. Computation of Interest and Fees	7
	3.6. Optional Prepayment	7
	3.7. Mandatory Prepayment	8
	3.8. Time and Place of Payments; Notice of Mandatory Prepayment Events; Declined Proceeds	9
	3.9. Borrowings and Payments Generally	11
	3.10. Fees	11
	3.11. Pro Rata Treatment	12
	3.12. Sharing of Payments	12
4.	TAX PROVISIONS	13
	4.1. Obligation to Mitigate	13
	4.2. Taxes	13
5.	REPRESENTATIONS AND WARRANTIES	18
	5.1. General	18
	5.2. Disclosure	18
	5.3. Good Standing of the Borrower; Power and Authority	19
	5.4. Subsidiaries	19
	5.5. Corporate Structure; Ownership of Shares of Subsidiaries	19
	5.6. Authorization of Agreement	20
	5.7. Absence of Further Requirements	20
	5.8. Title to Property	20
	5.9. Absence of Defaults and Conflicts Resulting from Transaction	20
	5.10. Absence of Existing Defaults and Conflicts	21
	5.11. Possession of Licenses and Permits	21

5.12.	Absence of Labor Dispute	22
5.13.	Possession of Intellectual Property	22
5.14.	Environmental Laws	22
5.15.	Statistical and Market-Related Data	23
5.16.	Litigation	23
5.17.	Financial Statements; Material Liabilities	23
5.18.	No Material Adverse Change in Business	23
5.19.	Investment Company Act	24
5.20.	Regulations T, U, X	24
5.21.	Anti-Corruption Laws, Anti-Terrorism and Money Laundering Laws	24
5.22.	Sanctions	24
5.23.	Taxes	25
5.24.	Insurance	25
5.25.	ERISA	25
5.26.	Material Project Documents	25
5.27.	Solvency	26
5.28.	Senior Security Documents	26
5.29.	Secured Debt	27
5.30.	Indebtedness; Liens	27
5.31.	Financing Documents	27
5.32.	Accounting Controls	27
5.33.	Accountants	27
6.	CONDITIONS PRECEDENT	28
6.1.		28
6.2.		31
7.	COVENANTS	32
7.1.	Distributions	32
7.2.	Use of Proceeds	33
7.3.	Incurrence of Indebtedness	33
7.4.	Maintenance of Designated Offtake Agreements	35
7.5.	Maintenance of Liens	37
7.6.	Maintenance of Ratings	37
7.7.	Senior Loans DSRA	37
7.8.	Material Project Documents	37
7.9.	Insurance	38
7.10.	Maintenance of Properties	38
7.11.	Books and Records	38
7.12.	Inspection Reports	38
7.13.	Sanctions Regulations, Etc.	39
7.14.	Designated Offtake Agreements	39
7.15.	Accounts	39
7.16.	Limitations on Formation of Controlled Subsidiaries	39
7.17.	Historical DSCR	39
7.18.	Merger, Consolidation, or Sale of Assets	40

	7.19. Capital Improvements	40
8.	REPORTING COVENANTS	41
	8.1. Reports	41
	8.2. Compliance Certificate	49
9.	EVENTS OF DEFAULT	50
	9.1. Non-Payment of Senior Loans	50
	9.2. Common Terms Agreements	50
	9.3. Breach of Covenants	50
	9.4. Bankruptcy	51
	9.5. Liens	51
	9.6. Project Completion Date	51
	9.7. Material Project Document Defaults	51
10.	REMEDIES	52
	10.1. Acceleration Upon Bankruptcy	52
	10.2. Acceleration Upon Other Event of Default	52
	10.3. Action Upon Event of Default	52
	10.4. Application of Proceeds	53
11.	THE ADMINISTRATIVE AGENT	54
	11.1. Appointment and Authority	54
	11.2. Rights as a Senior Lender	54
	11.3. Exculpatory Provisions	54
	11.4. Reliance by Administrative Agent	56
	11.5. Delegation of Duties	56
	11.6. Request for Indemnification by the Senior Lenders	57
	11.7. Resignation or Removal of Administrative Agent	57
	11.8. No Amendment to Duties of Administrative Agent Without Consent	58
	11.9. Non-Reliance on Administrative Agent and Senior Lenders	58
	11.10. Copies	59
	11.11. Erroneous Payments	59
12.	MISCELLANEOUS PROVISIONS	63
	12.1. Amendments, Etc.	63
	12.2. Entire Agreement	68
	12.3. Governing Law; Jurisdiction; Etc.	68
	12.4. Assignments	70
	12.5. Benefits of Agreement	74
	12.6. Costs and Expenses	74
	12.7. Counterparts; Effectiveness	75
	12.8. Indemnification	75
	12.9. Interest Rate Limitation	78
	12.10. No Waiver; Cumulative Remedies	78
	12.11. Notices and Other Communications	79
	12.12. Patriot Act Notice	81
	12.13. Payments Set Aside	81
	12.14. Right of Setoff	81

12.15.	Severability	82
12.16.	Survival	82
12.17.	Treatment of Certain Information; Confidentiality	82
12.18.	Waiver of Consequential Damagesl Etc.	84
12.19.	Waiver of Litigation Payments	84
12.20.	Reinstatement	84
12.21.	No Recourse	85
12.22.	P1 Intercreditor Agreement	85
12.23.	Termination	85
12.24.	Consultants	86
12.25.	No Fiduciary Duty	86
12.26.	Acknowledgement and Consent to Bail-In of Affected Financial Institutions	86
12.27.	Cashless Settlement	87
12.28.	Restricted Lenders	87
12.29.	Disclosure in Connection with Equator Principles	87

APPENDICES

- Appendix I - Definitions

SCHEDULES

- Schedule 2 - Lenders, Commitments
- Schedule 3.1(a) - Amortization Schedule
- Schedule 5.5 - Subsidiaries; Ownership of Shares of Subsidiaries
- Schedule 5.16 - Litigation
- Schedule 5.17 - Financial Statements
- Schedule 5.30 - Liens
- Schedule 12.11 - Notice Information

EXHIBITS

- Exhibit A - Form of Senior Loan Note
- Exhibit B - Form of Borrowing Notice
- Exhibit C-1 - Form of Lender Assignment Agreement
- Exhibit C-2 - Form of Affiliated Lender Assignment Agreement
- Exhibit D-1 - Form of U.S. Tax Compliance Certificate (For Non-U.S. Lenders that are not Partnerships For U.S. Federal Income Tax Purposes)
- Exhibit D-2 - Form of U.S. Tax Compliance Certificate (For Non-U.S. Participants that are not Partnerships For U.S. Federal Income Tax Purposes)
- Exhibit D-3 - Form of U.S. Tax Compliance Certificate (For Non-U.S. Participants that are Partnerships for U.S. Federal Income Tax Purposes)
- Exhibit D-4 - Form of U.S. Tax Compliance Certificate (For Non-U.S. Lenders that are Partnerships for U.S. Federal Income Tax Purposes)
- Exhibit E - Dutch Auction Procedures

This **CREDIT AGREEMENT** (this “**Agreement**”), dated as of December 28, 2023, is by and among:

- (1) **RIO GRANDE LNG, LLC**, a Texas limited liability company (the “**Borrower**”);
- (2) **WILMINGTON TRUST, NATIONAL ASSOCIATION**, as the Administrative Agent;
- (3) **MIZUHO BANK (USA)**, as the P1 Collateral Agent; and
- (4) each of the Senior Lenders from time to time party hereto;

each a “**Party**” and together the “**Parties**”.

WHEREAS:

- (A) the Borrower intends, among other things, (i) to own, upon the design, engineering, development, procurement, construction, installation thereof, the P1 Train Facilities, (ii) to own indirectly, upon the design, engineering, development, procurement, construction, installation thereof, certain Common Facilities at the Rio Grande Facility, (iii) to acquire directly (in respect of the P1 Train Facilities) or indirectly (in respect of the Common Facilities) subleases and easements in the land underlying and appurtenant to the Rio Grande Facility, (iv) acquire rights of usage over and in the Rio Grande Facility, (v) to cause the design, engineering, development, procurement, construction, installation, and insurance of the P1 Train Facilities and such Common Facilities, and (vi) to cause the operation and maintenance of the Rio Grande Facility, in each case and as relevant, subject to the CFAA and other Material Project Documents;
- (B) the Borrower has or will incur Senior Secured Debt to fund, *inter alia*, the design, engineering, development, procurement, construction, installation, testing, completion, ownership, operation, and maintenance of the Project;
- (C) the Borrower has requested that the Senior Lenders establish a credit facility, pursuant to which the Senior Lenders will make available and provide, upon the terms and conditions set forth herein, the Senior Loans to refinance existing CD Construction/Term Loans in accordance with Section 2.4(b) of the Common Terms Agreement;
- (D) the Borrower has granted certain security in the Collateral for the benefit of the Senior Secured Parties pursuant to the P1 Collateral Documents; and
- (E) the Senior Lenders are willing to make the credit facilities described herein available upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Defined Terms

Unless otherwise defined herein in Appendix I, capitalized terms used herein shall have the meanings provided in the Common Terms Agreement.

1.2. Principles of Interpretation

- (a) In this Agreement, except to the extent specified to the contrary or where the context otherwise requires:
- (i) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement;
 - (ii) references to “**Articles**”, “**Sections**”, “**Schedules**”, “**Exhibits**”, and “**Appendices**” are references to sections of, and schedules, exhibits and appendices to, this Agreement;
 - (iii) references to “**assets**” includes property, revenues, and rights of every description (whether real, personal, or mixed and whether tangible or intangible);
 - (iv) references to an “**amendment**” includes a supplement, replacement, novation, restatement, or re-enactment and “**amended**” is to be construed accordingly;
 - (v) references to any Government Rule includes any amendment or modification to such Government Rule, and all regulations, rulings, and other Government Rules promulgated under such Government Rule;
 - (vi) except where a document or agreement is expressly stated to be in the form “in effect” on a particular date, references to any document or agreement, including this Agreement, shall be deemed to include references to such document or agreement as amended, from time to time in accordance with its terms and (where applicable) subject to compliance with the requirements set forth herein;
 - (vii) references to any Party or party to any other document or agreement shall include its successors and permitted assigns;
 - (viii) words importing the singular include the plural and vice versa;
 - (ix) words importing the masculine include the feminine and vice versa;
 - (x) the words “**include**”, “**includes**”, and “**including**” are not limiting;
 - (xi) references to “**days**” shall mean calendar days, unless the term “**Business Days**” shall be used;

- (xii) references to “months” shall mean calendar months and references to “years” shall mean calendar years;
 - (xiii) unless the contrary indication appears, a reference to a time of day is a reference to the time of day in New York, New York;
 - (xiv) if any term is defined both in the Common Terms Agreement and in this Agreement, the definition in this Agreement shall prevail; and
 - (xv) references to any credit rating of a Specified Rating Agency shall, to the extent the rating categories of the applicable Specified Rating Agency are modified following the Closing Date, be deemed to refer to the equivalent rating under the successor rating categories of the applicable Specified Rating Agency.
- (b) This Agreement is the result of negotiations among, and has been reviewed by all parties hereto and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties hereto, and no ambiguity shall be construed in favor of or against any party hereto.
- (c) Unless a contrary intention appears, a term used in any notice given under or in connection herewith has the same meaning as in this Agreement.

1.3. UCC Terms

Unless otherwise defined herein, terms used herein that are defined in the UCC shall have the respective meanings given to those terms in the UCC.

1.4. Accounting and Financial Determinations

Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth herein, then such ratio or requirement shall be modified in a manner determined as soon as reasonably practicable and in good faith by the Borrower and set forth in a written notice to the Administrative Agent that preserves the original intent thereof in light of such change in GAAP.

1.5. Divisions

For all purposes under the Financing Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws) (a) if any asset, right, obligation, or liability of any Person becomes the asset, right, obligation, or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

2. LOAN COMMITMENTS AND BORROWING

2.1. Senior Loan Commitments

- (a) Subject to the terms and conditions set forth herein, each Senior Lender, severally and not jointly, shall make Senior Loans to the Borrower on the Senior Loan Borrowing Date, in an aggregate outstanding principal amount equal to 100% of such Senior Lender's Senior Loan Commitment.
- (b) After giving effect to the making of any Senior Loans, the aggregate outstanding principal amount of all Senior Loans shall not exceed the Aggregate Senior Loan Commitment.
- (c) Proceeds of the Senior Loans shall be applied by the Administrative Agent pursuant to a direction letter delivered by the Borrower to the Administrative Agent no later than 12:00 p.m., New York City time, on the Business Day prior to the Senior Loan Borrowing Date.
- (d) Senior Loans repaid or prepaid may not be reborrowed.

2.2. Notice of Senior Loan Borrowing

- (a) The Borrower shall request the Senior Loan Borrowing by delivering to the Administrative Agent and the P1 Collateral Agent a properly completed Borrowing Notice no later than 2:00 p.m., New York City time, on the fourth Business Day before the Senior Loan Borrowing Date.
- (b) Each Borrowing Notice delivered pursuant to this Section 2.2 shall refer to this Agreement and specify:
 - (i) the amount of such requested Senior Loan Borrowing which shall be an amount equal to 100% of the Aggregate Senior Loan Commitment; and
 - (ii) the requested date of the Senior Loan Borrowing which shall be a Business Day and the Senior Loan Borrowing Date.
- (c) The currency specified in a Borrowing Notice must be Dollars.
- (d) The Administrative Agent shall promptly (and in any event on the same Business Day, or, if such Borrowing Notice is delivered to the Administrative Agent later than 2:00 p.m., New York City time, on the following Business Day) notify each Senior Lender of any Borrowing Notice delivered pursuant to this Section 2.2, together with each such Senior Lender's share of the requested Senior Loan Borrowing.

2.3. Borrowing of Senior Loans

Subject to Section 2.1 and the satisfaction of the conditions in Section 6.2, on the Senior Loan Borrowing Date, each Senior Lender shall make a Senior Loan in the amount of its Senior Loan Commitment by wire transfer of immediately available funds to the

Administrative Agent, not later than 1:00 p.m., New York City time, and the Administrative Agent shall transfer the amounts so received as set forth in Section 2.1(c).

2.4. Termination, Reduction, and Reallocation of Senior Loan Commitments

- (a) Unless otherwise agreed by each affected Senior Lender, if a Senior Loan Borrowing is not consummated on the proposed Senior Loan Borrowing Date, all Senior Loan Commitments shall be automatically and permanently terminated.
- (b) All unused Senior Loan Commitments, if any, shall be terminated upon the occurrence of an Event of Default if required pursuant to Section 10.1 or Section 10.2 in accordance with the terms thereof.
- (c) Any termination of the Senior Loan Commitments pursuant to this Section 2.4 shall be permanent.

2.5. Account of Senior Loans; Register

- (a) Each of the Senior Lenders shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Senior Lender resulting from each Senior Loan made by such Senior Lender, including the amounts of principal and interest payable and paid to such Senior Lender from time to time hereunder.
- (b) The Administrative Agent shall maintain at the Administrative Agent's office (i) a copy of any Lender Assignment Agreement or Affiliated Lender Assignment Agreement delivered to it pursuant to Section 12.4 and (ii) a register for the recordation of the names and addresses of the Senior Lenders, and all the Senior Loan Commitments of, and principal amount of and interest on the Senior Loans owing and paid to, each Senior Lender pursuant to the terms hereof from time to time and of amounts received by the Administrative Agent from the Borrower and whether such amounts constitute principal, interest, fees, or other amounts and each Senior Lender's share thereof (the "**Register**"). The Register shall be available for inspection by the Borrower and any Senior Lender at any reasonable time and from time to time upon reasonable prior notice.
- (c) The entries made by the Administrative Agent in the Register or the accounts maintained by any Senior Lender shall be conclusive and binding evidence, absent manifest error, of the existence and amounts of the obligations recorded therein; provided, that the failure of any Senior Lender or the Administrative Agent to maintain such Register or accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Senior Loans in accordance with the terms of this Agreement. In the event of any conflict between the accounts and records maintained by any Senior Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.
- (d) The Borrower agrees that in addition to such accounts or records described in Section 2.5(b) and Section 2.5(c), the Senior Loans made by each Senior Lender shall, upon the request of any Senior Lender, be evidenced by one or more Senior Loan Notes duly executed on behalf of the Borrower and shall be dated the

Closing Date (or, if later, the date of any request therefor by a Senior Lender). Each such Senior Loan Note shall have all blanks appropriately filled in, and shall be payable to such Senior Lender and its registered assigns in a principal amount equal to the Senior Loan Commitment of such Senior Lender (it being understood that the principal amount of the Senior Loan Commitment of each Senior Lender shall be allocated amongst its Senior Loan Notes such that the aggregate principal amount of such Senior Loan Notes equals such Senior Lender's Senior Loan Commitment); provided, that each Senior Lender may attach schedules to its respective Senior Loan Notes and endorse thereon the date, amount, and maturity of its respective Senior Loans and payments with respect thereto.

3. REPAYMENTS, PREPAYMENTS, INTEREST AND FEES

3.1. Repayment of Senior Loan Borrowings

- (a) The Borrower unconditionally and irrevocably promises to pay to the Administrative Agent for the ratable account of each Senior Lender the aggregate outstanding principal amount of the Senior Loans on each Principal Payment Date, in accordance with the Amortization Schedule.
- (b) Notwithstanding anything to the contrary set forth in Section 3.1(a), the final principal repayment instalment on the Credit Agreement Maturity Date shall in any event be in an amount equal to the aggregate principal amount of all Senior Loans outstanding on such date.
- (c) In connection with any prepayment of Senior Loans permitted hereunder the Borrower shall deliver to the Administrative Agent an updated Amortization Schedule reflecting such prepayment, which updated Amortization Schedule shall be in form and substance satisfactory to the Lenders.

3.2. Interest Payment Dates

- (a) Interest accrued on each Senior Loan shall be payable, without duplication, on the following dates (each, an **"Interest Payment Date"**):
 - (i) with respect to any repayment or prepayment of any Senior Loans, on the date of each such repayment or prepayment;
 - (ii) on the Credit Agreement Maturity Date; and
 - (iii) on September 30 and March 30 of each year, commencing on March 30, 2024, or if any such day is not a Business Day, the next succeeding Business Day.
- (b) Interest accrued on the Senior Loans or other Obligations after the date such amount is due and payable (whether on the Credit Agreement Maturity Date, any Interest Payment Date, upon acceleration, or otherwise) shall be payable upon demand.

- (c) Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the occurrence of an event described in Section 10.1.

3.3. Interest Rate

The Senior Loans shall accrue interest at a rate *per annum* equal to the Interest Rate.

3.4. Post-Maturity Interest Rates; Default Interest Rates

If all or a portion of the principal amount of any Senior Loan is not paid when due (whether on the Credit Agreement Maturity Date, by acceleration or otherwise) or any Obligation under this Agreement (other than principal on the Senior Loans) is not paid when due (whether on the Credit Agreement Maturity Date, by acceleration, or otherwise), such amount shall bear interest at a rate *per annum* equal to the applicable Default Rate from the date of such non-payment until the amount then due is paid in full (after as well as before judgment).

3.5. Computation of Interest and Fees

- (a) All computations of interest for Senior Loans, shall be made on the basis of a 360-day year of twelve thirty-day months and will be payable semi-annually on the basis of six thirty-day months.
- (b) Interest shall accrue on each Senior Loan for the day on which the Senior Loan is made, and shall not accrue on a Senior Loan, or any portion thereof, for the day on which the Senior Loan or such portion is paid; provided, that any Senior Loan that is repaid on the same day on which it is made shall bear interest for one day.

3.6. Optional Prepayment

- (a) The Borrower shall have the right to prepay the Senior Loans (in whole or part) without premium or penalty (other than the Make-Whole Amount pursuant to Section 3.6(c)(ii), if applicable) by providing notice to the Administrative Agent prior to 1:00 p.m., New York City time, on the date that is at least fifteen days but no more than sixty days prior to the proposed prepayment date. Any prepayment notice may be revoked.
- (b) All voluntary prepayments under this Section 3.6 shall be made by the Borrower to the Administrative Agent for the account of the Senior Lenders in accordance with Section 3.6(c).
- (c) With respect to each prepayment to be made pursuant to this Section 3.6, on the date specified in the notice of prepayment delivered pursuant to Section 3.6(a), the Borrower shall pay to the Administrative Agent the sum of the following amounts:
 - (i) accrued but unpaid interest on the Senior Loans to be prepaid;

- (ii) the principal of the Senior Loans to be prepaid or, with respect to any Senior Loans prepaid prior to the Par Call Date, the Make-Whole Amount in respect of such Senior Loans; and
 - (iii) any other Obligations due to the Credit Agreement Senior Secured Parties in connection with any prepayment under the Financing Documents.
- (d) Amounts of any Senior Loans prepaid pursuant to this Section 3.6 may not be reborrowed.
- (e) If applicable, the Borrower will notify the Administrative Agent of the Make-Whole Amount with respect to any prepayment upon making such prepayment, and the Administrative Agent shall not be responsible for such calculation.
- (f) Voluntary payments of principal of the Senior Loans will be applied *pro rata* against subsequent scheduled payments, in inverse order of maturity, or in direct order of maturity, at the Borrower's sole discretion.

3.7. Mandatory Prepayment

- (a) The Borrower shall be required to prepay the Senior Loans in accordance with Section 9.7 *Application of Collateral Proceeds to the Senior Secured Obligations Prior to an Enforcement Action*) of the Collateral and Intercreditor Agreement with the applicable Senior Lenders' ratable share of the Mandatory Prepayment Portion of the following:
- (i) Loss Proceeds, to the extent that the aggregate amount of such Loss Proceeds received by the Borrower and not applied in accordance with Section 9.2(b) (*Loss Proceeds*) of the Collateral and Intercreditor Agreement exceeds \$300,000,000 since the later of the Closing Date and the last date on which a mandatory prepayment has been made pursuant to this clause (i);
 - (ii) Asset Sale Proceeds, to the extent that the aggregate amount of such Asset Sale Proceeds received by the Borrower and not used to purchase replacement property or prepay any other Senior Secured Debt in accordance with Section 9.3(b) (*Asset Sale Proceeds*) of the Collateral and Intercreditor Agreement exceeds \$300,000,000 since the later of the Closing Date and the last date on which a mandatory prepayment has been made pursuant to this clause (ii); and
 - (iii) Performance Liquidated Damages payments to the Borrower, to the extent that the aggregate amount of such payments received by the Borrower and not used to rectify any damages or losses suffered under the relevant Material Project Document resulting from a breach thereof by the applicable Material Project Party or make indemnity payments to Offtakers, in each case, in accordance with Section 9.4(b) (*Performance Liquidated Damages*) of the Collateral and Intercreditor Agreement exceeds \$300,000,000 since the later of the Closing Date and the last date on which a mandatory prepayment has been made pursuant to this clause (iii).

- (b) Upon the occurrence of a Change of Control Triggering Event, the Borrower shall prepay all outstanding Senior Loans *plus* a premium of 1.00% of the aggregate principal amount of Senior Loans so prepaid.
- (c) The Borrower shall make prepayments of Senior Secured Debt and cancel Senior Secured Debt Commitments as may be required upon the occurrence of a Credit Agreement LNG Sales Mandatory Prepayment Event in accordance with Section 7.4 and the Borrower shall allocate the amount so required to be prepaid to Senior Secured Debt constituting Senior Loans in accordance with this clause (c) in its sole discretion.
- (d) Amounts of any Senior Loans prepaid pursuant to this Section 3.7 may not be reborrowed.
- (e) Except as expressly provided in Section 3.7(b), no premium, penalty, or Make-Whole Amount shall be payable in connection with any prepayment under this Section 3.7.
- (f) Mandatory prepayments of the principal of the Senior Loans will be applied (i) in the case of mandatory prepayments pursuant to Section 3.7(a)(iii), or Section 3.7(c), *pro rata* against all remaining scheduled amortization payments in respect of the applicable Senior Loans and (ii) in the case of all other mandatory prepayments, in inverse order of maturity. The Borrower will notify the Administrative Agent in writing of the relevant provision of this Agreement requiring such mandatory prepayment.

3.8. Time and Place of Payments; Notice of Mandatory Prepayment Events; Declined Proceeds

- (a) The Borrower shall make each payment (including any payment of principal of or interest on any Senior Loan or any Fees or other Obligations) hereunder without setoff, deduction or counterclaim not later than 1:00 p.m., New York City time, on the date when due in Dollars and in immediately available funds to the Administrative Agent at the following account: M&T Bank / Wilmington Trust, N.A., ABA # 031100092, Account Name: Rio Grande LNG, Account # 165046-000, Attention: Jessica Jankiewicz, Ref: GCM – LOAN AGENCY, or at such other office or account as may from time to time be specified by the Administrative Agent to the Borrower. Funds received after 1:00 p.m., New York City time shall be deemed to have been received by the Administrative Agent on the next succeeding Business Day for the purpose of calculating interest thereon.
- (b) The Administrative Agent shall promptly remit in immediately available funds to each Credit Agreement Senior Secured Party its share, if any, of any payments received by the Administrative Agent for the account of such Credit Agreement Senior Secured Party.
- (c) Except as provided herein, whenever any payment (including any payment of interest or principal on any Senior Loan or any Fees or other Obligations) hereunder shall become due, or otherwise would occur, on a day that is not a Business Day, such payment shall be made on the immediately succeeding Business Day.

- (d) The Borrower shall give written notice to the Administrative Agent (which shall forward such notice to each Senior Lender) of any event giving rise to any mandatory prepayment in accordance with, (i) Section 3.7(a)(i) within ninety days after completing the relevant Restoration or the Borrower's election not to Restore pursuant to the CFAA, (ii) Section 3.7(a)(ii) within thirty days after the expiry of the period during which the Borrower is permitted to use such Asset Sale Proceeds pursuant to the Collateral and Intercreditor Agreement, (iii) Section 3.7(a)(iii) within ninety days after the expiry of the period during which the Borrower is permitted to use such Performance Liquidated Damages pursuant to the Collateral and Intercreditor Agreement, (iv) Section 3.7(b) within thirty days after the Change of Control Triggering Event, and (v) Section 3.7(c) upon the expiration of the applicable period under Section 7.4 (any such notice, a "**Mandatory Prepayment Event Notice**").
- (e) Each Mandatory Prepayment Event Notice shall specify the proposed prepayment date (the **Mandatory Prepayment Date**) which shall be (i) in the case of a Mandatory Prepayment Event Notice pursuant to Section 3.8(d)(i), (d)(ii), (d)(iii), or (d)(v) a date that is at least twenty Business Days after the date of the Mandatory Prepayment Event Notice and no later than thirty Business Days after the date of the Mandatory Prepayment Event Notice and (ii) in the case of a Mandatory Prepayment Event Notice pursuant to Section 3.8(d)(iv), a date that is at least thirty days after the date of the Mandatory Prepayment Event Notice and no later than sixty days after the date of the Mandatory Prepayment Event Notice.
- (f) A Senior Lender that desires to receive the applicable mandatory prepayment shall give notice to the Administrative Agent in writing or by telephone (confirmed in writing) at least three Business Days prior to the Mandatory Prepayment Date (the "**Mandatory Prepayment Confirmation Deadline**") that such Senior Lender elects to receive the applicable mandatory prepayment. Unless a Senior Lender gave its affirmative notice to the Administrative Agent in writing or by telephone (confirmed in writing) by the Mandatory Prepayment Confirmation Deadline, such Senior Lender shall be deemed to have declined the total amount of the applicable mandatory prepayment of its Senior Loans to be made pursuant to Section 3.7; provided, that, a Senior Lender will be entitled to withdraw its election if such Senior Lender provides written notice to the Administrative Agent no later than the Mandatory Prepayment Confirmation Deadline that such Senior Lender is withdrawing its election to have its Senior Loan repaid.
- (g) No later than one Business Day following the Mandatory Prepayment Confirmation Deadline, the Administrative Agent shall give written notice to the Borrower of the aggregate principal amount of Senior Loans to be prepaid on the Mandatory Prepayment Date.
- (h) Subject to Section 3.7(a) and Section 3.7(c), if the aggregate principal amount of Senior Loans and other Senior Secured Debt subject to a mandatory prepayment exceeds the amount available for such prepayment, the Senior Loans and such other Senior Secured Debt shall be repaid on a *pro rata* basis.

3.9. Borrowings and Payments Generally

- (a) Unless the Administrative Agent has received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Senior Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance with this Agreement and may, but shall not be required to, in reliance upon such assumption, distribute to the Senior Lenders the amount due. If the Borrower has not in fact made such payment, then each of the Senior Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Senior Lender in immediately available funds with interest thereon, for each day from (and including) the date such amount is distributed to it to (but excluding) the date of payment to the Administrative Agent, at the Federal Funds Effective Rate. A notice of the Administrative Agent to any Senior Lender with respect to any amount owing under this Section 3.9 shall be conclusive, absent manifest error.
- (b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest, fees and other amounts then due hereunder, such funds shall be applied (i) *first*, to pay interest, fees and other amounts (except for the amounts required to be paid pursuant to the following clause (ii)) then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest, fees and such other amounts then due to such parties and (ii) *second*, to pay principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.
- (c) Nothing herein shall be deemed to obligate any Senior Lender to obtain funds for any Senior Loan in any particular place or manner or to constitute a representation by any Senior Lender that it has obtained or will obtain funds for any Senior Loan in any particular place or manner.
- (d) The Borrower hereby authorizes each Senior Lender, if and to the extent payment owed to such Senior Lender is not made when due under this Agreement or under the Senior Loan Notes held by such Senior Lender, to charge from time to time against any or all of the Borrower's accounts with such Senior Lender any amount so due.

3.10. Fees

- (a) The Borrower agrees to pay or cause to be paid fees in the amounts and at the times from time to time agreed pursuant to each applicable Bank Fee Letter and each applicable Fee Letter.
- (b) All Fees shall be paid on the dates due in immediately available funds. Once paid, none of the Fees shall be refundable under any circumstances.

3.11. Pro Rata Treatment

- (a) The portion of any Senior Loan Borrowing shall be allocated by the Administrative Agent *pro rata* among the Senior Lenders in accordance with each Senior Lender's Senior Loan Commitment Percentage.
- (b) Except as otherwise required under Article 4, each payment or prepayment of principal of the Senior Loans shall be allocated by the Administrative Agent *pro rata* among the Senior Lenders in accordance with the respective principal amounts of their outstanding Senior Loans, and each payment of interest on the Senior Loans shall be allocated by the Administrative Agent *pro rata* among the Senior Lenders in accordance with the respective interest amounts outstanding on the Senior Loans held by them.

3.12. Sharing of Payments

- (a) If any Senior Lender obtains any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Senior Loan (other than pursuant to the terms of Article 4) in excess of its *pro rata* share of payments then or therewith obtained by all Senior Lenders holding Senior Loans, such Senior Lender shall purchase from the other Senior Lenders (for cash at face value) such participations in Senior Loans of such type made by them as shall be necessary to cause such purchasing Senior Lender to share the excess payment or other recovery ratably with each of them; provided, that if all or any portion of the excess payment or other recovery is thereafter recovered from such purchasing Senior Lender, the purchase shall be rescinded and each Senior Lender that has sold a participation to the purchasing Senior Lender shall repay to the purchasing Senior Lender the purchase price to the ratable extent of such recovery together with an amount equal to such selling Senior Lender's ratable share (according to the proportion of (x) the amount of such selling Senior Lender's required repayment to the purchasing Senior Lender to (y) the total amount so recovered from the purchasing Senior Lender) of any interest or other amount paid or payable by the purchasing Senior Lender in respect of the total amount so recovered. The Borrower agrees that any Senior Lender so purchasing a participation from another Senior Lender pursuant to this Section 3.12(a) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 12.14) with respect to such participation as fully as if such Senior Lender were the direct creditor of the Borrower in the amount of such participation. The provisions of this Section 3.12 shall not be construed to apply to any payment by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by any Senior Lender as consideration for the assignment or sale of a participation in any of its Senior Loans to which it has a participation interest.
- (b) If under any applicable bankruptcy, insolvency or other similar law, any Senior Lender receives a secured claim in lieu of a setoff to which this Section 3.12 applies, then such Senior Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Senior Lenders entitled under this Section 3.12 to share in the benefits of any recovery on such secured claim.

4. TAX PROVISIONS

4.1. Obligation to Mitigate

- (a) If the Borrower is required to pay any Indemnified Taxes or additional amount to any Senior Lender or any Government Authority for the account of any Senior Lender pursuant to Section 4.2, then such Senior Lender shall use reasonable efforts to designate a different lending or issuing office for funding or booking its Senior Loans hereunder to assign its rights and obligations under the Financing Documents to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Senior Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 4.2, as applicable, in the future and (ii) would not subject such Senior Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Senior Lender or violate any applicable Government Rule. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Senior Lender in connection with any such designation or assignment.
- (b) If the Borrower is required to pay any Indemnified Taxes or additional amount to any Senior Lender or any Government Authority for the account of any Senior Lender pursuant to Section 4.2 and, in each case, such Senior Lender has declined or is unable to designate a different lending or issuing office or to make an assignment in accordance with Section 4.1(a), then the Borrower may, at its sole expense and effort, upon notice in writing to such Senior Lender and the Administrative Agent, request such Senior Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 12.4), all (but not less than all) its interests, rights (other than its existing rights to payments pursuant to Section 4.2) and obligations under this Agreement (including all of its Senior Loans and Senior Loan Commitments) to an assignee that shall assume such obligations (which assignee may be another Senior Lender, if a Senior Lender accepts such assignment); provided, that (i) the Borrower shall have received the prior written consent of the Administrative Agent, (ii) such Senior Lender shall have received payment of an amount equal to all Obligations of the Borrower owing to such Senior Lender from such assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other Obligations), (iii) in the case of any such assignment resulting from a claim for payments required to be made pursuant to Section 4.2, such assignment will result in the elimination or reduction of such compensation or payments, and (iv) such assignment does not conflict with any applicable law binding upon or to which such Senior Lender is subject. A Senior Lender shall not be required to make any such assignment and delegation if, as a result of a waiver by such Senior Lender of its rights under Section 4.2, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply.

4.2. Taxes

- (a) Defined Terms. For purposes of this Section 4.2, the term “**Government Rule**” includes FATCA.
- (b) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any Financing Document shall be made without deduction

or withholding for any Taxes, except as required by Government Rules. If any Government Rule (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Government Authority in accordance with Government Rules and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 4.2) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

- (c) Payment of Other Taxes by Borrower. The Borrower shall timely pay to the relevant Government Authority in accordance with Government Rules, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.
- (d) Indemnification by Borrower. The Borrower shall indemnify each Recipient, within ten days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 4.2) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Senior Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Senior Lender, shall be conclusive absent manifest error.
- (e) Indemnification by the Senior Lenders. Each Senior Lender shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Indemnified Taxes attributable to such Senior Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Senior Lender's failure to comply with the provisions of Section 12.4(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Senior Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Financing Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Government Authority. A certificate as to the amount of such payment or liability delivered to any Senior Lender by the Administrative Agent shall be conclusive absent manifest error. Each Senior Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Senior Lender under any Financing Document or otherwise payable by the Administrative Agent to the Senior Lender from any other source against any amount due to the Administrative Agent under this Section 4.2.
- (f) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Government Authority pursuant to this Section 4.2, the Borrower

shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Government Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders.

- (i) Any Senior Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Financing Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Senior Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Government Rules or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Senior Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution, and submission of such documentation (other than such documentation set forth in clauses (A), (B), and (D) of Section 4.2(g)(ii)) shall not be required if in the Senior Lender's reasonable judgment such completion, execution, or submission would subject such Senior Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Senior Lender.
- (ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person:
 - (A) Any Senior Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or about the date on which such Senior Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Senior Lender is exempt from U.S. federal backup withholding tax;
 - (B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the Recipient) on or about the date on which such Foreign Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:
 - (1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any

Financing Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Financing Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

- (2) executed copies of IRS Form W-8ECI;
 - (3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit D-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code (a “**U.S. Tax Compliance Certificate**”) and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or
 - (4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit D-2 or Exhibit D-3, IRS Form W-9, or other certification documents from each beneficial owner, as applicable; provided, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit D-4 on behalf of each such direct and indirect partner;
- (C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the Recipient) on or about the date on which such Foreign Lender becomes a Senior Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by Government Rules as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Government Rules to permit the Borrower or the

Administrative Agent to determine the withholding or deduction required to be made; and

- (D) if a payment made to a Senior Lender under any Financing Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Senior Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Senior Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by Government Rules (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Senior Lender has complied with such Senior Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "**FATCA**" shall include any amendments made to FATCA after the date of this Agreement.
- (iii) Each Senior Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.
- (h) Status of Administrative Agent. The Administrative Agent (and any successor or supplemental Administrative Agent on the date it becomes the Administrative Agent) shall provide the Borrower with two duly completed original copies of, if it is not a U.S. Person, IRS Form W-8ECI or W-8BEN-E with respect to payments to be received by it as a beneficial owner and, if applicable, IRS Form W-8IMY (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Senior Lenders, and shall update such forms periodically upon the reasonable request of the Borrower. In the event that the Administrative Agent is a U.S. Person that is not a corporation, the Administrative Agent shall provide the Borrower with two duly completed original copies of IRS Form W-9.
- (i) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 4.2 (including by the payment of additional amounts pursuant to this Section 4.2), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 4.2 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Government Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party

the amount paid over pursuant to this Section 4.2(i) (plus any penalties, interest or other charges imposed by the relevant Government Authority) in the event that such indemnified party is required to repay such refund to such Government Authority. Notwithstanding anything to the contrary in this Section 4.2(i), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 4.2(i) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 4.2(i) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

- (j) Survival. Each party's obligations under this Section 4.2 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Senior Lender, the termination of the Senior Loan Commitment, and the repayment, satisfaction or discharge of all obligations under any Financing Document.

5. REPRESENTATIONS AND WARRANTIES

5.1. General

- (a) The Borrower makes each representation and warranty set forth in this Article 5 on the Closing Date to, and in favor of, the Administrative Agent, each of the Senior Lenders and each other Party hereto.
- (b) All of the representations and warranties set forth in this Article 5 shall survive the Closing Date but shall not be deemed to be repeated by the Borrower at any time after the Closing Date.

5.2. Disclosure

This Agreement and the documents, certificates or other writings delivered to the Senior Lenders by or on behalf of the Borrower prior to the date hereof in connection with the transactions contemplated hereby and the financial statements set forth on Schedule 5.17 (this Agreement and such documents, certificates or other writings and such financial statements, including those provided through Intralinks, (and, in each case, any updates thereto) delivered to each Senior Lender being referred to, collectively, as the "**Disclosure Documents**"), taken as a whole, do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, that (a) with respect to any projected financial information, forecasts, estimates, or forward-looking information, information of a general economic or general industry nature or pro forma calculation made in the Disclosure Documents, including with respect to the start of operations of the Project, the Project Completion Date, final capital costs or operating costs of the Development, oil prices, Gas prices, LNG prices, electricity prices, Gas reserves, rates of production, Gas market supplies, LNG market demand, exchange rates or interest rates, rates of taxation, rates of inflation,

transportation volumes or any other forecasts, projections, assumptions, estimates or pro forma calculations, the Borrower represents only that such information was based on assumptions made in good faith and believed to be reasonable at the time and the Borrower makes no representation as to the actual attainability of any projections set forth in the Disclosure Documents, or any such other items listed in this clause (a), and (b) the Borrower makes no representation with respect to any information or material provided by a Consultant (except to the extent such information or material originated with the Borrower). There is no fact known to the Borrower that could reasonably be expected to have a Material Adverse Effect that has not been set forth herein or in the Disclosure Documents.

5.3. Good Standing of the Borrower; Power and Authority

- (a) The Borrower has been duly formed and is existing and in good standing as a limited liability company under the laws of the State of Texas, with power and authority (limited liability company and other) to own its properties and conduct its business as described in the Disclosure Documents.
- (b) The Borrower is duly qualified to do business as a foreign entity in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification, except where the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect.
- (c) The Borrower has the limited liability company power and authority to execute and deliver, and to perform its obligations under, each of this Agreement, the Senior Loan Notes, and the other applicable Financing Documents.

5.4. Subsidiaries

Each subsidiary of the Borrower has been duly formed and is existing and in good standing under the laws of the jurisdiction of its formation, with power and authority (limited liability company) to own its properties and conduct its business as described in the Disclosure Documents; and each subsidiary of the Borrower is duly qualified to do business as a foreign entity in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification, except where failure to be so qualified would not reasonably be expected to result in a Material Adverse Effect; all of the issued and outstanding limited liability company interests of each subsidiary of the Borrower have been duly authorized and validly issued and are fully paid and nonassessable; and the limited liability company interests of each subsidiary of the Borrower that are owned by the Borrower, are owned free from liens, encumbrances and defects other than Permitted Liens and as disclosed in the Disclosure Documents.

5.5. Corporate Structure; Ownership of Shares of Subsidiaries

- (a) Schedule 5.5 contains (except as noted therein) complete and correct lists of the Borrower's subsidiaries as of the Closing Date, direct or indirect, showing, as to each subsidiary, the name thereof, the jurisdiction of its organization, the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Borrower and each other subsidiary.

- (b) All of the outstanding shares of capital stock or similar equity interests of each subsidiary shown in ~~ir~~Schedule 5.5 as being owned by the Borrower or a subsidiary as of the Closing Date will have been validly issued, fully paid and non-assessable and owned by the Borrower or another subsidiary free and clear of any Lien that is prohibited by this Agreement or the Common Terms Agreement as of the Closing Date.

5.6. Authorization of Agreement

This Agreement has been duly authorized, executed and delivered by the Borrower in accordance with its terms, and constitutes a valid and legally binding obligation of the Borrower, enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

5.7. Absence of Further Requirements

No consent, approval, authorization, or order of, or filing or registration with, any Person (including any governmental agency or body or any court) is required for the Borrower's execution, delivery and performance of this Agreement or the consummation of the transactions contemplated by this Agreement, except those that, if not obtained or made, would not, individually or in the aggregate, have a Material Adverse Effect.

5.8. Title to Property

- (a) The Borrower and, to the knowledge of the Borrower, its subsidiaries have good and indefeasible title to all real property and good title to all personal property described in the Disclosure Documents as owned by the Borrower and its subsidiaries, free and clear of all Liens except (i) Permitted Liens, (ii) as described, and subject to limitations contained, in the Disclosure Documents, or (iii) as do not materially interfere with the use of such properties taken as a whole as they have been used in the past and are proposed to be used in the future as described in the Disclosure Documents.
- (b) The real property and buildings held under lease or sublease by the Borrower and, to the knowledge of the Borrower, its subsidiaries, are held under valid and subsisting and enforceable leases or subleases, as applicable, free from Liens except (i) Permitted Liens, (ii) as do not materially interfere with the use of the properties of the Borrower and its subsidiaries as they have been used in the past and otherwise as described in the Disclosure Documents, and (iii) as are proposed to be used in the future as described in the Disclosure Documents; provided, that with respect to such leases or subleases, as applicable, the enforceability thereof may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws relating to or affecting creditors' rights and remedies and by general equity principles.

5.9. Absence of Defaults and Conflicts Resulting from Transaction

The execution, delivery and performance of this Agreement will not result in a breach or violation of any of the terms and provisions of, or constitute a default or a Debt Repayment Triggering Event under, or result in the imposition of any Lien upon any

property or assets of the Borrower or its subsidiaries pursuant to (a) the certificate of formation or limited liability company agreement of the Borrower or its subsidiaries, (b) any statute, any rule, regulation or order of any governmental agency or body or any court, domestic or foreign, having jurisdiction over the Borrower or its subsidiaries or any of their properties, or (c) any agreement or instrument to which the Borrower or its subsidiaries is a party or by which the Borrower or its subsidiaries is bound or to which any of the properties of the Borrower or its subsidiaries is subject, except, in the case of clauses (b) and (c), for any breaches, violations, defaults, liens, charges or encumbrances that, individually or in the aggregate, would not result in a Material Adverse Effect. As of the date hereof, no Debt Repayment Triggering Event exists.

5.10. Absence of Existing Defaults and Conflicts

- (a) Neither the Borrower nor, to the knowledge of the Borrower, its subsidiaries is in violation of its respective certificate of formation or limited liability company agreement.
- (b) Neither the Borrower nor, to the knowledge of the Borrower, its subsidiaries is in default (or with the giving of notice or lapse of time would be in default) under any existing obligation, agreement, covenant, or condition contained in any indenture, loan agreement, mortgage, lease or other agreement or instrument to which any of them is a party or by which any of them is bound or to which any of the properties of any of them is subject or in violation of any law or statute or any judgment, order, rule or regulation of any court, arbitrator or governmental or regulatory authority having jurisdiction over the Borrower, or any of its properties or, to the knowledge of the Borrower, its subsidiaries and their properties, except such defaults or violations that would not, individually or in the aggregate, result in a Material Adverse Effect.

5.11. Possession of Licenses and Permits

- (a) Except as disclosed in the Disclosure Documents, the Borrower and, to the knowledge of the Borrower, its subsidiaries possess, and are in compliance with the terms of, all certificates, authorizations, franchises, licenses and permits issued by the appropriate governmental agencies or bodies (collectively, “**Licenses**”) necessary or material to the Project at its current stage of development, except where the failure to so possess or comply would not, individually or in the aggregate, result in a Material Adverse Effect.
- (b) Except as disclosed in the Disclosure Documents, the Borrower and, to the knowledge of the Borrower, its subsidiaries have not received any notice of proceedings relating to the revocation or modification of any Licenses that, if determined adversely to the Borrower or its subsidiaries, would individually or in the aggregate have a Material Adverse Effect.
- (c) All of the Licenses possessed by the Borrower and its subsidiaries are valid and in full force and effect, except where the invalidity of such Licenses or the failure of such Licenses to be in full force and effect would not, individually or in the aggregate, result in a Material Adverse Effect.

5.12. Absence of Labor Dispute

No material labor dispute involving or affecting the Borrower or, to the knowledge of the Borrower, any of its subsidiaries exists or, to the knowledge of the Borrower, is imminent, which could reasonably be expected to have a Material Adverse Effect.

5.13. Possession of Intellectual Property

Except as would not have a Material Adverse Effect, the Borrower owns or possesses, or can acquire on reasonable terms, adequate trademarks, trade names and other rights to inventions, know how, patents, copyrights, confidential information and other intellectual property (collectively, "**Intellectual Property Rights**") necessary to conduct the business now operated or proposed in the Disclosure Documents to be conducted by them, and have not received any notice of nor are they aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property Rights that, if determined adversely to the Borrower or its subsidiaries, would individually or in the aggregate have a Material Adverse Effect.

5.14. Environmental Laws

- (a) Except as disclosed in the Disclosure Documents, or as would not individually or in the aggregate have a Material Adverse Effect, (i) neither the Borrower nor, to the knowledge of the Borrower, its subsidiaries is in violation of, or has any liability under, any federal, state or local, law, rule, regulation, ordinance, code, other requirement or rule of law (including common law), or decision or order of any governmental agency, governmental body or court, relating to pollution, to the use, handling, transportation, treatment, storage, discharge, disposal or Release of Hazardous Substances, to the protection or restoration of the environment or natural resources (including biota), to health and safety including as such relates to exposure to Hazardous Substances, and to natural resource damages (collectively, "**Environmental Laws**"), (ii) neither the Borrower nor, to the knowledge of the Borrower, its subsidiaries is liable or allegedly liable for any Release or threatened Release of Hazardous Substances, including at any off-site treatment, storage or disposal site, (iii) neither the Borrower nor, to the knowledge of the Borrower, its subsidiaries is subject to any claim by any governmental agency or governmental body or person relating to Environmental Laws or Hazardous Substances, (iv) the Borrower and, to the knowledge of the Borrower, its subsidiaries have received and are in compliance with all, and have no liability under any, permits, licenses, authorizations, identification numbers or other approvals required under applicable Environmental Laws to conduct their respective businesses as currently conducted, and (v) to the knowledge of the Borrower, there are no facts or circumstances that would reasonably be expected to result in a violation of, liability under, or claim pursuant to any Environmental Law.
- (b) For purposes of this Section 5.14, "**Hazardous Substances**" means (i) any "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (ii) any "hazardous waste" as defined in the Resource Conservation and Recovery Act, as amended, (iii) any petroleum or petroleum product, (iv) any polychlorinated biphenyl and (v) any pollutant or contaminant or hazardous, dangerous or toxic chemical, material,

waste or substance regulated under or within the meaning of any applicable Environmental Law or which can give rise to liability under any Environmental Law. The term “**Release**” means any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection or leaching into the environment.

5.15. Statistical and Market-Related Data

The third-party statistical and market-related data included in the Disclosure Documents are based on or derived from sources that the Borrower believes to be reliable and accurate in all material respects.

5.16. Litigation

Except as described in the Disclosure Documents or on Schedule 5.16, there is no (a) action, suit or proceeding before or by any court, arbitrator or governmental agency, body or official, domestic or foreign, now pending or, to the knowledge of the Borrower, threatened, to which it is or may be a party or to which its or, to the knowledge of the Borrower, its subsidiaries’ business or property is or may be subject, (b) statute, rule, regulation or order that has been enacted, adopted or issued by any governmental agency with respect to the Borrower or, to the knowledge of the Borrower, its subsidiaries, or (c) injunction, restraining order or order of any nature issued by a federal or state court or foreign court of competent jurisdiction, to which the Borrower or, to the knowledge of the Borrower, its subsidiaries is or may be subject, that, in the case of clauses (a), (b), and (c) above (i) would, individually or in the aggregate have a Material Adverse Effect or (ii) challenging the validity of this Agreement, the Common Terms Agreement or the Collateral and Intercreditor Agreement.

5.17. Financial Statements; Material Liabilities

The financial statements included in the Disclosure Documents (and set forth on Schedule 5.17) present fairly in all material respects the financial position of the Borrower as of the dates thereof and its results of operations and cash flows for the periods shown, and such financial statements have been prepared in conformity with the generally accepted accounting principles in the United States applied on a consistent basis (subject to normal year-end adjustments and footnote disclosure in the case of interim financial statements). The Borrower and its subsidiaries do not have any material liabilities that are not disclosed in the Disclosure Documents.

5.18. No Material Adverse Change in Business

Except as disclosed in the Disclosure Documents, since the end of the period covered by the latest audited financial statements included in the Disclosure Documents: (a) there has been no change in the membership interest or units of the Borrower or any material adverse change, or any development involving a prospective material adverse change, in or affecting the financial condition, business, properties or results of operations of the Borrower and its subsidiaries, taken as a whole, that is material and adverse, (b) there has been no dividend or distribution of any kind declared, paid or made by the Borrower on any class of its limited liability company interests, (c) there has been no change in the limited liability company interests, short-term indebtedness, long-term indebtedness, net current assets or net assets of the Borrower and its subsidiaries, that is material and

adverse, and (d) neither the Borrower nor any of its subsidiaries has sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, that is material and adverse.

5.19. Investment Company Act

The Borrower is not and, after the borrowing of the Senior Loans and the application of the proceeds thereof as described in the Disclosure Documents, will not be an “investment company” as defined in the United States Investment Company Act of 1940, as amended (the “**Investment Company Act**”).

5.20. Regulations T, U, X

Neither the borrowing of the Senior Loans, nor the application of the proceeds thereof by the Borrower as described in the Disclosure Documents, will violate Regulation T, Regulation U, or Regulation X of the Board of Governors of the Federal Reserve System.

5.21. Anti-Corruption Laws, Anti-Terrorism and Money Laundering Laws

- (a) None of the Borrower, any of its subsidiaries, or, to the Borrower’s Knowledge, any director, officer or employee of the Borrower or any subsidiary (i) is in violation of any Anti-Terrorism and Money Laundering Laws, (ii) is in violation of any Anti-Corruption Laws, or (iii) to the Borrower’s Knowledge, has taken any action directly or indirectly that the Borrower reasonably believes gives rise to circumstances presently in existence that could constitute a violation of any Anti-Corruption Laws or Anti-Terrorism and Money Laundering Laws.
- (b) The Borrower has instituted and maintains policies and procedures, including appropriate controls, reasonably designed to promote compliance by the Borrower and its subsidiaries, and its and their directors, officers, employees, and authorized agents with Anti-Corruption Laws and Anti-Terrorism and Money Laundering Laws (to the extent applicable).
- (c) The proceeds of the Senior Loans will not be used by the Borrower and any of its subsidiaries, directly or knowingly indirectly, in violation of any Anti-Corruption Laws or Anti-Terrorism and Money Laundering Laws (to the extent applicable), including through the making of any bribe or unlawful payment.

5.22. Sanctions

- (a) Neither the borrowing of the Senior Loans nor the use of proceeds of the Senior Loans by the Borrower or any subsidiary will violate or cause any violation by any Person of applicable Sanctions Regulations.
- (b) None of the Borrower nor, to the knowledge of the Borrower, any subsidiary, nor any director, officer, or employee of any of the foregoing, is a Restricted Person.
- (c) The Borrower has instituted and maintains policies and procedures, including appropriate controls, reasonably designed to promote compliance by the Borrower and its subsidiaries, and its and their directors, officers, employees, and authorized agents with Sanctions Regulations.

5.23. Taxes

- (a) None of the Borrower or, to the knowledge of the Borrower, any of its subsidiaries is classified as an association (or publicly traded partnership) taxable as a corporation for U.S. federal income tax purposes.
- (b) The Borrower and its subsidiaries have filed all tax returns that are required to have been filed in any jurisdiction, and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the amount of which, individually or in the aggregate, is not material or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Borrower or a subsidiary, as the case may be, has established adequate reserves in accordance with GAAP.
- (c) The Borrower knows of no basis for any other tax or assessment that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.24. Insurance

All insurance required to be obtained on the date hereof by the insurance requirements set forth in Exhibit E (*Insurance Requirements*) to the CFAA has been obtained and is in full force and effect; the Borrower and its subsidiaries are in compliance with the terms of such policies and instruments in all material respects; and all premiums due and payable on the date hereof on all such insurance have been paid.

5.25. ERISA

The Borrower does not maintain, contribute to or have an obligation to maintain or contribute to, and has not, at any time within the past six years, maintained, contributed to or been obligated to maintain or contribute to, or have any liability in respect of, any employee benefit plan which is subject to Title I or Title IV of ERISA or section 4975 of the Code (a “**U.S. Plan**”), including any liability of any U.S. Plan of any ERISA Affiliate, other than joint and several contingent liability of an ERISA Affiliate that is not material and is not reasonably expected to be imposed on the Borrower. The Borrower has never been at any time within the past six years, a “party in interest” (as defined in section 3(14) of ERISA) or a “disqualified person” (as defined in section 4975 of the Code) with respect to any U.S. Plan.

5.26. Material Project Documents

- (a) The P1 EPC Contracts, the Initial Offtake Agreements, and each RG Facility Agreement are each in full force and effect (assuming due execution, authorization, and delivery by the parties thereto other than the Borrower), subject to any conditions subsequent contained therein and each constitutes a valid and binding obligation of the Borrower and, to the Borrower's knowledge, each other party thereto. As of the date hereof, all conditions precedent to the obligations of the parties under the P1 EPC Contracts, the Initial Offtake Agreements, and each

RG Facility Agreement that are required for the current stage of Development have been satisfied or waived.

- (b) Except as disclosed in the Disclosure Documents, the Borrower is not in default of any of the P1 EPC Contracts, the Initial Offtake Agreements, or any RG Facility Agreement, and, to the Borrower's knowledge, no default by any other party thereto exists under any provision of any of the P1 EPC Contracts, the Initial Offtake Agreements, or any RG Facility Agreement.

5.27. Solvency

- (a) On the Closing Date, after giving pro forma effect to the borrowing of the Senior Loans and the use of proceeds therefrom as indicated in the Disclosure Documents, the Borrower will be Solvent.
- (b) As used in this Section 5.27, the term "**Solvent**" means, with respect to a particular date, that on such date (i) the present fair market value (or present fair saleable value) of the assets of the Borrower is not less than the total amount required to pay the liabilities of the Borrower on its total existing debt and other liabilities (including contingent liabilities) as they become absolute and matured; (ii) the Borrower is able to pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business; (iii) assuming consummation of the borrowing of the Senior Loans as contemplated by this Agreement and the Disclosure Documents, the Borrower does not intend to, and does not believe that it will, incur debts or other liabilities beyond its ability to pay as such debts and other liabilities mature; and (iv) the Borrower is not engaged in any business or transaction, and is not about to engage in any business or transaction, for which its assets would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which the Borrower is engaged.

5.28. Senior Security Documents

- (a) As of the Closing Date, the P1 Security Agreement and the P1 Accounts Agreement are effective to create, in favor of the P1 Collateral Agent for the benefit of the Senior Secured Parties, as collateral security for the payment and performance of the obligations secured thereby, a valid and enforceable security interest in the Collateral covered or purported to be covered thereby.
- (b) The prior recordation of the Common Deed of Trust, the CFCo Deed of Trust, and the P1 Deed of Trust and the prior filing of the UCC-1 financing statements in connection with the Senior Security Documents, with the priority created thereby are sufficient to perfect by such recordation or filing in each jurisdiction where required to perfect the lien and security interest in personal property and fixtures described therein, and it is not necessary to make any new filings or take any other action to perfect, or to maintain the perfection, of such liens and security interests.

5.29. Secured Debt

The Senior Loans will constitute Senior Secured Debt that *is pari passu* with all other Senior Secured Debt and will be secured by the Collateral equally and ratably with all other Senior Secured Debt.

5.30. Indebtedness; Liens

- (a) As of the Closing Date, the Borrower has no Indebtedness other than Permitted Indebtedness.
- (b) As of the Closing Date, (i) there is no Lien on any assets or property of the Borrower other than Permitted Liens and (ii) except for Permitted Liens, neither the Borrower nor any subsidiary has agreed or consented to cause or permit any of its property, whether now owned or hereafter acquired, to be subject to a Lien that secures Indebtedness or to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien that secures Indebtedness.
- (c) Except for the Senior Secured Debt Documents, any Material Project Documents, or as otherwise disclosed on Schedule 5.30, neither the Borrower nor any of its subsidiaries is a party to, or otherwise subject to any provision contained in, its organizational documents, any instrument evidencing Indebtedness for borrowed money of the Borrower or such subsidiary, or any agreement related thereto that limits the amount of, or otherwise imposes restrictions on the incurring of, Indebtedness of the Borrower.

5.31. Financing Documents

Each of the Financing Documents is in full force and effect and constitutes a valid and binding obligation of the Borrower.

5.32. Accounting Controls

The Borrower and, to the knowledge of the Borrower, its subsidiaries maintain a system of accounting controls that is sufficient to provide reasonable assurances that: (a) transactions are executed in accordance with management's general or specific authorization; (b) transactions are recorded as necessary to permit financial statements in conformity with GAAP and to maintain accountability for assets; (c) access to assets is permitted only in accordance with management's general or specific authorization; and (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

5.33. Accountants

Grant Thornton LLP, who has certified certain financial statements of the Borrower and delivered its report with respect to the audited consolidated financial statements and schedules included in the Disclosure Documents, is an independent public accounting firm with respect to the Borrower in accordance with U.S. generally accepted accounting principles.

6. CONDITIONS PRECEDENT

6.1. Conditions to Closing Date

The occurrence of the Closing Date and the effectiveness of the Senior Loan Commitments is subject to the satisfaction of each of the following conditions precedent to the satisfaction of each of the Administrative Agent and the Senior Lenders, unless, in each case, waived by each of the Administrative Agent and the Senior Lenders.

- (a) Financing Documents. The Administrative Agent shall have received true, correct and complete copies of the following documents, each of which shall have been duly authorized, executed and delivered by the parties thereto:
 - (i) this Agreement;
 - (ii) the Common Terms Agreement;
 - (iii) the Collateral and Intercreditor Agreement;
 - (iv) the P1 Security Agreement;
 - (v) the P1 Deed of Trust;
 - (vi) the P1 Pledge Agreement;
 - (vii) the P1 Accounts Agreement;
 - (viii) the P1 Equity Contribution Agreement, and, to the extent applicable, each Equity Guaranty (as defined in the P1 Equity Contribution Agreement) delivered thereunder on or prior to the Closing Date;
 - (ix) the Common Accounts Agreement;
 - (x) the Common Deed of Trust;
 - (xi) the Bank Fee Letters;
 - (xii) the CFCo Deed of Trust; and
 - (xiii) any Senior Loan Notes (to the extent requested by any Senior Lender at least three Business Days prior to the Closing Date).
- (b) Accession Agreements. The Administrative Agent shall have received true, correct and complete copies of the Common Terms Accession Agreement and the CIA Accession Confirmation, each of which shall have been duly authorized, executed and delivered by the Administrative Agent as Senior Secured Debt Holder Representative or Senior Secured Creditor Representative (as applicable) on behalf of the Senior Lenders.

- (c) Representations and Warranties. The representations and warranties of the Borrower in this Agreement shall be true and correct when made and on the Closing Date.
- (d) Performance. The Borrower shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by it prior to or on the Closing Date.
- (e) Officer's Certificate. The Borrower shall have delivered to the Administrative Agent an Officer's Certificate, dated the Closing Date, certifying (i) that the conditions specified in clause (c), clause (d) and clause (i) have been fulfilled and (ii) as to (A) the resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of this Agreement and (B) the Borrower's organizational documents as then in effect.
- (f) Opinions of Counsel. The Administrative Agent shall have received the following legal opinions, each in form and substance reasonably satisfactory to the Administrative Agent and the Senior Lenders:
 - (i) the opinion of Latham & Watkins LLP, transaction counsel to each of the Loan Parties, the Sponsor, and each of the RG Facility Entities;
 - (ii) the opinion of K&L Gates LLP, special FERC and DOE regulatory counsel to the Borrower;
 - (iii) the opinion of Duggins Wren Mann & Romero, LLP, with respect to certain regulatory and permitting matters;
 - (iv) the opinion of King & Spalding LLP, real property and special Texas counsel to each of the Borrower and each of the RG Facility Entities; and
 - (v) the substantive non-consolidation opinion of Latham & Watkins LLP, special counsel to the Borrower and each of the RG Facility Entities, with respect to the bankruptcy-remote status of the Borrower and each of the RG Facility Entities.
- (g) Consultant Reports. The Administrative Agent shall have received:
 - (i) a due diligence report of the Independent Engineer, dated as of July 5, 2023, together with a reliance letter for such report;
 - (ii) a due diligence report of the Market Consultant, dated as of October 13, 2022, as supplemented by the AAR Shell LNG SPA Addendum, dated December 5, 2022, the Updated Galp Addendum, dated January 4, 2023, the ENN Addendum, dated January 5, 2023, the Second Updated Itochu Addendum, dated January 27, 2023; the H1 2023 Addendum, dated April 20, 2023; the Third Updated TotalEnergies Addendum, dated June 19, 2023; the Revised RGLNG Offtaker Economics Addendum, dated June 30, 2023, and the SPA Amendments Addendum, dated June 30, 2023, together with a reliance letter for such report;

- (iii) a due diligence report of Norton Rose Fulbright US LLP, as the counsel to the Senior Lenders dated as of January 6, 2023 and as supplemented by the First Addendum, dated February 2, 2023, the Second Addendum, dated February 20, 2023, the Third Addendum, dated February 27, 2023, the Fourth Addendum, dated May 24, 2023, and the Fifth Addendum, dated June 28, 2023;
- (iv) a report of the Environmental Advisor (including (A) the Environmental Advisor's analysis of the Borrower's compliance with the Equator Principles (and setting forth any recommendations for actions necessary to achieve compliance, if applicable) and (B) the Environmental and Social Action Plan), dated as of August 12, 2022, as supplemented by the ESDD Addenda, dated May 5, 2023, the Rio Grande LNG ESAP Update, dated April 4, 2023, and the Rio Grande LNG ESAP Update, dated June 29, 2023, together with a reliance letter for such report; and
- (v) a report of the Shipping Consultant, dated as of October 2022, as supplemented by the Update Report, dated December 28, 2022, the Update Report, dated March 30, 2023, and the Update Report, dated June 29, 2023, together with a reliance letter for such report.
- (h) Payment of Fees. Without limiting Section 3.10, the Borrower shall have paid on or before the Closing Date (i) the reasonable and documented fees, charges and disbursements of the Senior Lenders' special counsel referred to in Section (f) to the extent reflected in a written statement of such counsel rendered to the Borrower at least three Business Day prior to the Closing Date (or such lesser time as may be agreed by the Borrower) and (ii) the fees payable to the Administrative Agent pursuant to the Administrative Agent Fee Letter.
- (i) Changes in Corporate Structure. Except as contemplated in the Disclosure Documents, the Borrower shall not have changed its jurisdiction of incorporation or organization, as applicable, or been a party to any merger or consolidation or succeeded to all or any substantial part of the liabilities of any other entity, at any time following December 31, 2022.
- (j) FERC Authorization and DOE Export Authorization. The Administrative Agent shall have received evidence satisfactory to the Senior Lenders that each of the DOE Export Authorizations and FERC Authorization (i) has been duly obtained, (ii) is in full force and effect, (iii) is held in the name of the Borrower, (iv) is not the subject of any pending rehearing by or to DOE/FE or FERC, and (v) is free from conditions or requirements (A) the compliance or non-compliance with which could reasonably be expected to have a Material Adverse Effect or (B) which the Borrower does not expect to be able to satisfy on or prior to the commencement of the relevant stage of Development.
- (k) Collateral. The Collateral shall be subject to the perfected first priority Lien (subject only to Permitted Liens) established pursuant to, and to the extent required to be perfected as of the Closing Date under, the Senior Security Documents.

- (l) Sufficient Funds. The Administrative Agent shall have received an Officer's Certificate, dated the Closing Date, certifying the existence of sufficient funds needed to achieve Substantial Completion under each P1 EPC Contract by the Date Certain.
- (m) Rating of Senior Loans. Each Senior Lender shall have received evidence reasonably satisfactory to counsel for the Senior Lenders that Senior Loans have been assigned a rating equal to or better than BBB by Kroll.
- (n) CUSIP Number. On or prior to the Closing Date, a "CUSIP" Number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the SVO) shall have been obtained for the Senior Loans.
- (o) No Default. On the Closing Date, the Financing Documents (other than this Agreement) shall be in full force and effect, and no Default or Event of Default (as such terms are defined in each such Financing Document) under any Financing Document shall have occurred and be continuing.
- (p) Bank Regulatory Requirements. Each Senior Lender shall have received, or had access to, to the extent requested at least three Business Days prior to the Closing Date:
 - (i) a Beneficial Ownership Certification from the Borrower if it qualifies as a "legal entity customer" under the Beneficial Ownership Regulation; and
 - (ii) all documentation and other information required by bank regulatory authorities under applicable KYC Requirements.

6.2. Conditions to Senior Loan Borrowing Date

The obligation of each Senior Lender to make its Senior Loans on the Senior Loan Borrowing Date shall be subject to the satisfaction or waiver of the following conditions:

- (a) Notice of Senior Loan Borrowing. The Administrative Agent shall have received a duly executed Borrowing Notice, as required by and in accordance with Section 2.2.
- (b) Payment of Fees. The Administrative Agent shall have received for its own account, or for the account of each Senior Lender under this Agreement entitled thereto, all fees due and payable pursuant to this Agreement, the Bank Fee Letters and any other Financing Document and all costs and expenses (including costs, fees and expenses of legal counsel and Consultants) payable hereunder or thereunder for which invoices have been presented.
- (c) Absence of Default. No Default or Event of Default has occurred and is continuing on such date or will result from the consummation of the transactions contemplated by the Credit Agreement Transaction Documents.

7. COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the following obligations set forth in this Article 7 in favor and for the benefit of the Administrative Agent and each Senior Lender.

7.1. Distributions

The Borrower will not make or agree to make, directly or indirectly, any Distributions unless:

- (a) such Distribution is in compliance with the Common Terms Agreement and the P1 Accounts Agreement;
- (b) no Default or Event of Default under Section 9.1 has occurred and is continuing;
- (c) no actual Credit Agreement LNG Sales Mandatory Prepayment Event or Unmatured Credit Agreement LNG Sales Mandatory Prepayment Event has occurred and is continuing as of the date of the proposed Distribution (i) in respect of which the prepayment or cancellation of Senior Secured Debt, if any, required by the occurrence of such event pursuant to this Agreement or any other Senior Secured Debt Instrument has not been made in full or (ii) P1 Distribution Collateral has been provided to the P1 Collateral Agent in an amount equal to the lesser of (A) the amount of the Distribution that is proposed to be made and (B) the maximum amount that would be mandatorily payable pursuant to Section 3.7 and any other Senior Secured Debt Instrument as a result of the relevant Credit Agreement LNG Sales Mandatory Prepayment Event, that will be drawn or called and deposited in cash in accordance with the P1 Accounts Agreement by the Borrower in the event that a mandatory prepayment of Senior Secured Debt is triggered pursuant to Section 3.7 or any other Senior Secured Debt Instrument if the Borrower does not have sufficient cash available pursuant to Section 3.11(f) (*P1 Debt Prepayment Account*) of the P1 Accounts Agreement to make such mandatory prepayment;
- (d) in the case of any Extraordinary Distribution from the P1 Pre-Completion Revenue Account in accordance with Section 3.2(c) (*P1 Pre-Completion Revenue Account*) of the P1 Accounts Agreement:
 - (i) no CTA Default or CTA Event of Default has occurred and is continuing;
 - (ii) Substantial Completion (as defined in the T1/T2 EPC Contract) of the Train 1 Facility shall have occurred, as confirmed by the Independent Engineer;
 - (iii) the Credit Agreement Projected DSCR for the four Fiscal Quarter period commencing on the projected Initial Principal Payment Date shall not be less than 1.40:1.00;
 - (iv) the Borrower shall have delivered to the Administrative Agent a certificate:

- (A) confirming that Substantial Completion (as defined in the T1/T2 EPC Contract) of the Train 2 Facility and Substantial Completion (as defined in the T3 EPC Contract) of the Train 3 Facility, and the occurrence of the Project Completion Date is reasonably expected to occur on or before the Date Certain; and
- (B) as to the sufficiency of funds available to the Borrower to complete the Train 2 Facility (as defined in the T1/T2 EPC Contract), the Train 3 Facility (as defined in the T3 EPC Contract) and the P1 Common Facilities.
- (v) Designated Offtake Agreements with an aggregate amount of ACQ required to achieve a Credit Agreement Projected DSCR of at least 1.40:1.00 based on the Base Case Forecast shall be in full force and effect;
- (vi) the “**Date of First Commercial Delivery**” with respect to the Train 1 Facility under, and as defined in, each of the Initial Offtake Agreements referred to in clauses (b), (c), (d), (f), and (h) of the definition thereof shall have occurred; and
- (vii) no Default or Event of Default under Section 9.7(a) shall have occurred and be continuing; and
- (e) in the case of any Distributions other than Extraordinary Distributions:
 - (i) the Historical DSCR as of the Fiscal Quarter most recently ended or then ending is at least 1.25 to 1.00; and
 - (ii) the Contracted Projected DSCR for the next four Fiscal Quarter period is at least 1.25 to 1.00 provided, that the Borrower may, at its option, exclude any amounts comprising of scheduled bullet or balloon principal payments of Senior Secured Debt that was pre-funded with proceeds of Replacement Debt or other Indebtedness.

7.2. Use of Proceeds

The Borrower shall use the proceeds of the Senior Loans solely for purposes permitted by Section 2.4(b) (*Replacement Debt*) of the Common Terms Agreement. The Borrower shall not use any part of the proceeds of any Senior Loans to purchase or carry any Margin Stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System).

7.3. Incurrence of Indebtedness

- (a) The Borrower will not, directly or indirectly, create, incur, assume, permit, suffer to exist or otherwise be or become liable with respect to, contingently or otherwise (collectively, “**incur**”) any Replacement Debt unless
 - (i) the Borrower shall have demonstrated, by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Replacement Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal

Quarter) through the Notional Amortization Period shall not be less than 1.40:1.00; provided, that for purposes of this clause (i) the Credit Agreement Projected CFADS used to calculate the Credit Agreement Projected DSCR shall assume, if such Replacement Debt is incurred prior to the Project Completion Date, that all Senior Secured Debt Commitments will be fully drawn, (ii) the weighted average life to maturity of the Replacement Debt shall be longer than the weighted average life to maturity of the Senior Secured Debt being replaced, and (iii) the final maturity date of the Replacement Debt shall occur after the maturity date of the Senior Secured Debt being replaced.

- (b) The Borrower will not incur any Supplemental Debt (other than Funding Shortfall Debt which shall be governed by Section 7.3(d) below) in an amount greater than \$250,000,000 unless (i) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Supplemental Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the Notional Amortization Period shall not be less than 1.40:1.00; provided, that for purposes of this clause (i), the Credit Agreement Projected CFADS used to calculate the Credit Agreement Projected DSCR shall assume that all commitments for Supplemental Debt will be fully drawn as of the date on which such Supplemental Debt is incurred and (ii) any Specified Rating Agency reaffirms that the rating of the Senior Loans will not, as a result of the incurrence of such Supplemental Debt, be lower than the lower of (A) the Required Rating and (B) the rating of the Senior Loans by any Specified Rating Agency immediately prior to such incurrence of such Supplemental Debt.
- (c) The Borrower will not incur any Relevering Debt unless (i) prior to the Project Completion Date, (A) such Relevering Debt is Reinstatement Debt or (B) (1) the incurrence of such Relevering Debt would not cause the Debt to Equity Ratio to exceed 75:25 and (2) upon the incurrence of such Relevering Debt (other than Reinstatement Debt), the Senior Loans shall be rated by any Specified Rating Agency and at least one such rating shall be equal to or better than the Required Rating, and (ii) following the Project Completion Date, (A) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Relevering Debt) the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the Notional Amortization Period shall not be less than 1.40:1.00 and (B) upon the incurrence of such Relevering Debt (other than Reinstatement Debt), the Senior Loans shall be rated by any Specified Rating Agency and at least one such rating shall be equal to or better than the Required Rating.
- (d) The Borrower will not incur any Funding Shortfall Debt unless (i) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that (after taking into account the incurrence of such Funding Shortfall Debt) the Credit Agreement Projected DSCR commencing on Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the Notional Amortization Period shall not be less than 1.40:1.00; provided, that for purposes of this clause (i), the Credit Agreement Projected CFADS used to calculate the Credit Agreement Projected DSCR shall assume, if such Funding Shortfall Debt is incurred prior to the Project Completion Date, that

all commitments for Funding Shortfall Debt will be fully drawn as of the date on which such Funding Shortfall Debt is incurred and any Specified Rating Agency reaffirms that the rating of the Senior Loans will not, as a result of the incurrence of such Funding Shortfall Debt, be lower than the lower of (A) the Required Rating and (B) the rating of the Senior Loans by any Specified Rating Agency immediately prior to such incurrence of such Funding Shortfall Debt.

- (e) The Borrower will not incur any Working Capital Debt unless each of the following conditions is satisfied:
 - (i) the aggregate principal amount of Working Capital Debt (including the then-outstanding funded and unfunded commitments in respect of the CD Revolving Loans) may not at any time exceed \$3,000,000,000; and
 - (ii) The condition set forth in Section 2.3(c)(ii) (*Working Capital Debt*) of the Common Terms Agreement has been satisfied.

7.4. Maintenance of Designated Offtake Agreements

- (a) The Borrower shall at all times maintain Designated Offtake Agreements providing for commitments to purchase LNG in quantities at least equal to the Base Committed Quantity for each such Qualified Offtake Agreement's applicable Qualified Term. If any Designated Offtake Agreement has terminated, the Borrower shall either (i) designate another Qualified Offtake Agreement or enter into one or more additional Designated Offtake Agreements within 180 days following such termination to the extent necessary to meet the Base Committed Quantity (provided, that if at the end of such 180-day period, the Borrower is diligently pursuing one or more replacement Qualified Offtake Agreements, such period will be extended for an additional period (not to exceed ninety days) during which the Borrower reasonably expects to enter into such replacement Designated Offtake Agreement(s) as long as the implementation of such extension could not reasonably be expected to result in a Material Adverse Effect) or (ii) make a prepayment, offer to make a prepayment (including any offer pursuant to Section 3.7(a)), or cancel commitments in respect of Senior Secured Debt. The principal amount of the Senior Secured Debt (which shall not extend to any Working Capital Debt unless only Working Capital Debt is then outstanding) that the Borrower shall repay or offer to prepay and/or the amount of undrawn Senior Secured Debt commitments that the Borrower shall cancel in accordance with the foregoing clause (ii) shall be (x) the aggregate principal amount of Senior Secured Debt (excluding principal amounts with respect to Working Capital Debt unless only Working Capital Debt is then outstanding) then outstanding plus the aggregate principal amount of undrawn Senior Secured Debt Commitments (except with respect to Working Capital Debt unless only Working Capital Debt is then outstanding) less (y) the maximum principal amount of Senior Secured Debt that can be incurred or remain outstanding without producing an Credit Agreement Projected DSCR of less than 1.20:1.00 for the period starting from the first Quarterly Payment Date for the repayment of principal after the end of the applicable cure period to the end of the calendar year in which such Quarterly Payment Date occurs, and for each calendar year thereafter through the Credit Agreement Maturity Date (based on a Base Case Forecast updated only to take into account each Designated Offtake Agreement in effect at such time (including

any new Designated Offtake Agreements entered into to replace a Designated Offtake Agreement whose termination triggered the foregoing clause (ii)).

- (b) The Borrower shall not permit the occurrence of any Impairment of any Required Export Authorization in respect of any Designated Offtake Agreement unless the Borrower:
 - (i) provides a reasonable remediation plan (setting forth in reasonable detail proposed steps to reinstate the Required Export Authorization, to designate any existing Qualified Offtake Agreement as a Designated Offtake Agreement, or to modify any Designated Offtake Agreement arrangements, such as through diversions or alternative delivery or sale arrangements, such that such DOE Export Authorization is no longer a Required Export Authorization within 360 days following such occurrence) with respect to any or all such Designated Offtake Agreements (each such item an “**Export Authorization Remediation**”) within thirty days following such occurrence;
 - (ii) diligently pursues such Export Authorization Remediation; and
 - (iii) causes such Export Authorization Remediation to take effect within 180 days following the occurrence of the Impairment; provided, that the Borrower shall have a further 180 days to effect an Export Authorization Remediation if the following conditions are met: (A) the Borrower is diligently pursuing its plan for the Export Authorization Remediation; (B) the Impairment of the Required Export Authorization of such Designated Offtake Agreement could not reasonably be expected to result in a Material Adverse Effect during such subsequent cure period; and (C) the Administrative Agent has received a certification from the Borrower, prior to the expiration of the initial 180 day period, confirming that the conditions in subparts (A) and (B) of this proviso have been met, together with documentation reasonably supporting its certification, which may include, to the extent relevant and applicable, a description of the plans being undertaken for the Export Authorization Remediation (although commercially sensitive information may be omitted), any measures being taken by the Borrower to address the underlying cause of the Impairment to the extent relevant to the Impairment and Export Authorization Remediation, any legal measures being undertaken to reverse the Impairment, any interim cash flow mitigation measures being taken by the Borrower (including sales of spot cargoes), any modification to Offtake Agreement arrangements such that the Impaired DOE Export Authorization is no longer a Required Export Authorization with respect to any or all such Designated Offtake Agreements, and the impact on the Borrower projected Cash Flow during the subsequent cure period, and the Administrative Agent (acting at the instruction of the Majority Senior Lenders, which instructions shall be given by the Senior Lenders acting reasonably) has not objected to such certification within thirty days following delivery thereof.
- (c) The Borrower shall not consent to any sale, transfer, assignment or disposition by any counterparty to a Designated Offtake Agreement of its interest in or rights or

obligations under such Designated Offtake Agreement (if the Borrower has such consent rights under the applicable Designated Offtake Agreement) except for (i) as could not reasonably be expected to have a Material Adverse Effect, (ii) any assignments and transfers permitted or contemplated in the P1 Collateral Documents, (iii) assignments by a counterparty to its Affiliate as contemplated in, and in accordance with the terms of, the applicable Designated Offtake Agreement, and (iv) any assignments to any other Person so long as, (A) after giving effect to such assignment, the Borrower shall have received written confirmation from any Recognized Credit Rating Agency to the effect that the Recognized Credit Rating Agency has considered the contemplated transaction and that, if such event occurs, such Recognized Credit Rating Agency would reaffirm the then current rating of the Senior Loans (or assign a higher rating) as of the date of such event or (B) the assignee of such Designated Offtake Agreement has at least one rating from any Recognized Credit Rating Agency that is the same or better than any rating of the original counterparty to such Designated Offtake Agreement by any Recognized Credit Rating Agency.

7.5. Maintenance of Liens

Without limiting the right of the Borrower to consummate Asset Sales in accordance with the Common Terms Agreement, the Borrower will preserve and maintain good, legal and valid title to, or rights in, the Collateral free and clear of Liens (other than Permitted Liens).

7.6. Maintenance of Ratings

The Borrower shall use its commercially reasonable efforts to cause the Senior Loans to be rated by any Specified Rating Agency.

7.7. Senior Loans DSRA

- (a) At any time on or prior to the Project Completion Date, the Borrower shall cause the Senior Loans DSRA to be funded in cash and/or by DSR Credit Support in accordance with the P1 Accounts Agreement in an amount equal to the Senior Loans Debt Service Reserve Amount. For the avoidance of doubt, other than as expressly provided in the foregoing sentence, the funding of the Senior Loans DSRA shall not otherwise be an affirmative covenant hereunder or under any other Senior Secured Credit Document.
- (b) For purposes of the definition of "DSRA Reserve Amount" set forth in the P1 Accounts Agreement, the amount required to be funded pursuant to this Agreement shall be the Senior Loan Debt Service Reserve Amount.

7.8. Material Project Documents

The Borrower shall not agree to any material amendment or termination of any Material Project Document (other than any RG Facility Agreement) to which it is or becomes a party unless (a) a copy of such amendment or termination has been delivered to the P1 Intercreditor Agent in advance of the effective date thereof along with a certificate of an Authorized Officer of the Borrower certifying that the proposed amendment or termination could not reasonably be expected to have a Material Adverse Effect or (b) the

Borrower has obtained the consent of the Administrative Agent (acting at the instruction of a majority of the Senior Lenders) to such amendment or termination.

7.9. Insurance

The Borrower will, and will cause each of its subsidiaries to, maintain, with an insurer of recognized financial responsibility, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business.

7.10. Maintenance of Properties

The Borrower will, and will cause each of its subsidiaries to, maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times; provided, that this Section 7.10 shall not prevent the Borrower or any subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Borrower has concluded that such discontinuance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

7.11. Books and Records

The Borrower will, and will cause each of its subsidiaries to, maintain proper books of record and account in conformity with GAAP and all applicable requirements of any governmental authority having legal or regulatory jurisdiction over the Borrower or such subsidiary, as the case may be. The Borrower will, and will cause each of its subsidiaries to, keep books, records and accounts which, in reasonable detail, accurately reflect all transactions and dispositions of assets. The Borrower and its subsidiaries have devised a system of internal accounting controls sufficient to provide reasonable assurances that their respective books, records, and accounts accurately reflect all transactions and dispositions of assets in all material respects and the Borrower will, and will cause each of its subsidiaries to, continue to maintain such system.

7.12. Inspection Reports

Upon the request of the Majority Senior Lenders or, if an Event of Default has occurred and is continuing, any Senior Lender, the Administrative Agent will request the P1 Intercreditor Agent to promptly (x) exercise its rights under Section 4.11 (*Access; Inspections*) of the Common Terms Agreement with respect to such matters referred to therein as may be requested by such Senior Lender(s) in a written notice to the Administrative Agent and (y) deliver to the Administrative Agent (for further delivery to all Senior Lenders) a reasonably detailed report in respect of any exercise of the P1 Intercreditor Agent's rights under Section 4.11 (*Access; Inspections*) of the Common Terms Agreement with respect to the matters requested by the Senior Lenders in such notice to the Administrative Agent. In any case, any such report shall be subject to the confidentiality provisions of Section 15.15 (*Termination of Certain Information*;

Confidentiality) of the Collateral and Intercreditor Agreement or analogous confidentiality restrictions required by the Borrower.

7.13. Sanctions Regulations, Etc.

The Borrower shall, and shall cause each of its subsidiaries to, comply in all material respects with Sanctions Regulations. Without limiting the foregoing, the Borrower agrees that if it obtains knowledge or receives any notice that the Borrower or its subsidiaries or any Person holding a legal or beneficial interest therein (whether directly or indirectly) is or becomes a Restricted Person, then the Borrower will comply with all applicable Sanctions Regulations with respect thereto. The Borrower will not, and will not permit any Person to directly or knowingly indirectly have any investment in or engage in any dealing or transaction (including using, lending, making payments of, contributing or otherwise making available, all or any part of, the proceeds of the Senior Loans or other transactions contemplated by this Agreement or any other Financing Document) with any Person if such investment, dealing or transaction (a) involves or is for the benefit of any Restricted Person or any Sanctioned Country except to the extent permitted for a Person required to comply with Sanctions Regulations, (b) would cause any Senior Lender or any Affiliate of such Senior Lender to be in violation of, or the subject of applicable Sanctions Regulations or (c) in any other manner that could reasonably be expected to result in any Person being in breach of any Sanctions Regulations (if any to the extent applicable to any of them) or becoming a Restricted Person.

7.14. Designated Offtake Agreements

Within thirty days after executing a Designated Offtake Agreement, the Borrower shall deliver to the Administrative Agent a Consent Agreement with respect to such Designated Offtake Agreement.

7.15. Accounts

The Borrower shall not establish any bank accounts other than the P1 Accounts, the Distribution Account, and the Common Accounts.

7.16. Limitation on Formation of Controlled Subsidiaries

The Borrower shall not form or create any new Controlled Subsidiaries other than the RG Facility Entities (during any period when such RG Facility Entities remain Controlled Subsidiaries).

7.17. Historical DSCR

- (a) Together with the delivery of financial statements in accordance with Section 8.1(a)(ii) in respect of each full Fiscal Quarter occurring after the Initial Principal Payment Date, the Borrower shall calculate and deliver to the Administrative Agent and the Senior Lenders its calculation of the Historical DSCR.
- (b) The Borrower shall not permit the Historical DSCR as of the end of any Fiscal Quarter from and following the Initial Principal Payment Date to be less than 1.10 to 1.00; provided, that a failure to meet the required ratio as a result of a failure to

maintain a Designated Offtake Agreement shall be addressed pursuant to Section 7.4(a) and not pursuant this Section 7.17; provided, further, that, notwithstanding anything to the contrary herein or in any P1 Financing Document, if the Historical DSCR as of the end of any Fiscal Quarter following the Initial Principal Payment Date is (or would be) less than 1.10 to 1.00, then any direct or indirect owner of the Borrower shall have the right to provide cash to the Borrower, not later than twenty Business Days following the date of delivery of the calculation of the Historical DSCR as required pursuant to Section 7.17(a) by (i) transferring from the Distribution Account to the P1 Revenue Account or (ii) causing the Equity Owners to deposit in the P1 Revenue Account such amount as, when added to the otherwise applicable Cash Flow for purposes of calculating Historical CFADS for the applicable period, would cause the Historical DSCR for such period to equal or exceed 1.10 to 1.00 (and upon such transfer or deposit, any default under this Section 7.17(b) shall be deemed immediately cured) (provided, that the Borrower shall not have the right to cure a default of this Section 7.17(b) by operation hereof in respect of more than six Fiscal Quarters in aggregate prior to the Credit Agreement Maturity Date and in each four consecutive Fiscal Quarter period there shall be at least two Fiscal Quarters in which no cure of a default of this Section 7.17(b) shall have been made (it being expressly understood and agreed that a cure of a default of this Section 7.17(b) may be exercised in consecutive Fiscal Quarters)).

7.18. Merger, Consolidation, or Sale of Assets

The Borrower may not, directly or indirectly: consolidate, amalgamate or merge with or into another Person (regardless of whether the Borrower is the surviving entity); convert into another form of entity or continue in another jurisdiction where such conversion or continuance would be adverse in any material respect to the Senior Lenders; sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to another Person; or dissolve, liquidate, terminate, reorganize or wind up nor take any action to amend or modify its corporate constituent or governing documents where such amendment would be adverse in any material respect to the Senior Lenders, unless:

- (a) a Rating Reaffirmation shall have occurred and, so long as the SSD Discharge Date with respect to the Senior Secured Debt under the CD Senior Notes Indenture has not occurred, a CD Indenture Rating Reaffirmation shall have occurred; or
- (b) any such action or transaction has been approved by the Administrative Agent acting at the instruction of the Majority Senior Lenders.

7.19. Capital Improvements

- (a) Subject to Section 7.19(b) and notwithstanding anything to the contrary in Section 5.14 (*Capital Improvements*) of the Common Terms Agreement, the Borrower shall not make any Discretionary Capital Improvements that are Major Capital Improvements or are funded by Supplemental Debt unless (i) (A) the plans and specifications of such Discretionary Capital Improvement have been reviewed and confirmed reasonable by the Independent Engineer in the Capital Improvement IE Certificate and (B) the Independent Engineer confirms in the

Capital Improvement IE Certificate that such Discretionary Capital Improvement could not reasonably be expected to have a material and adverse impact on the Project or (ii) such Capital Improvements constitute Restoration Work.

- (b) The Borrower may only fund Permitted Capital Improvements using (i) proceeds of Supplemental Debt, (ii) capital contributions or Permitted Subordinated Debt provided by the Pledgor or the Equity Owners that are in addition to the Cash Equity Financing, (iii) such funds on deposit in the Distribution Account or the P1 Distribution Reserve Account that are permitted to be distributed pursuant to Section 3.7 (*P1 Distribution Reserve Account*) of the P1 Accounts Agreement, (iv) Loss Proceeds, or (v) Indebtedness referred to in clause (m) of the definition of Permitted Indebtedness. Prior to the commencement of work on such Permitted Capital Improvements, the Borrower shall provide evidence satisfactory to the P1 Administrative Agent that it has funds required to pay its allocated share of such Permitted Capital Improvements under the CFAA from the sources described in the previous sentence.

8. REPORTING COVENANTS

The Borrower covenants and agrees that until the Discharge Date, it shall perform or observe or cause to be performed or observed (as applicable) each of the obligations set forth in this Article 8 in favor and for the benefit of the Administrative Agent and each Senior Lender.

8.1. Reports

- (a) The Borrower shall furnish or cause to be furnished to the Administrative Agent (i) annual audited consolidated financial statements of the Borrower prepared in accordance with GAAP (together with notes thereto and a report thereon by an independent accountant of established national reputation), such statements to be so furnished within 120 days after the end of the Fiscal Year covered thereby and (ii) unaudited consolidated financial statements of the Borrower for each of the first three Fiscal Quarters of each Fiscal Year and the corresponding quarter and year-to-year period of the prior year prepared in all material respects on a basis consistent with the annual consolidated financial statements furnished pursuant to clause (i) of this clause (a), such statements to be so furnished within sixty days after the end of each such quarter; provided, that the Borrower shall give each Senior Lender prior written notice, which may be by e-mail, of the posting or filing of any financial statements pursuant to this Section 8.1; and provided, further, that upon request of any holder to receive paper copies of such forms, financial statements, other information and Officer's Certificates or to receive them by email, the Borrower will promptly deliver paper copies or email them, as the case may be, to such holder.
- (b) The Borrower may comply with this Section 8.1 by posting the information described herein on a website or online data system no later than the date that the Borrower is required to provide those reports to the Administrative Agent and maintaining such posting for so long as any Senior Loans remain outstanding. Access to such reports on such website or online data system may be subject to a confidentiality acknowledgment and password protection; provided, that, no other conditions may be imposed on access to such reports other than a representation

by the Person accessing such reports that it is the Administrative Agent or a Senior Lender.

- (c) Delivery of such reports, information and documents to the Administrative Agent is for informational purposes only and the Administrative Agent's receipt of such shall not constitute actual or constructive knowledge or notice of any information contained therein or determinable from information contained therein, including the Borrower's compliance with any of its covenants hereunder (as to which the Administrative Agent is entitled to rely exclusively on Officer's Certificates).
- (d) Notwithstanding the foregoing, any reports or other information required to be filed, delivered or furnished pursuant to this Section 8.1 shall be deemed filed, delivered or furnished if filed electronically with the SEC through the SEC's Electronic Data Gathering, Analysis and Retrieval System (or any successor system).
- (e) The Administrative Agent, following receipt from the Borrower or the P1 Intercreditor Agent, shall furnish or cause to be furnished to each Senior Lender such information as the Administrative Agent receives pursuant to this Section 8.1 or from the P1 Intercreditor Agent pursuant to Article 6 (*Reporting Requirements*) of the Common Terms Agreement, in each case, promptly after receipt of such information by the Administrative Agent, unless such information is required to be delivered by the Borrower directly to the Senior Lenders pursuant to this Agreement.
- (f) The Borrower shall promptly, and in any event within five Business Days, after receipt from the CASA Advisor (as defined in the P1 CASA), deliver to the Administrative Agent and the Senior Lenders a copy of any material written statement, budget, plan or reports and any notice pursuant to Section 5.5 (*Variance in a P1 Services Budget*) of the P1 CASA, in each case, delivered to the Borrower under the P1 CASA (including any such statements, budget, plan or report with respect to the Rio Grande Facility).
- (g) Not later than thirty days after the end of each month up to and including the month during which the Project Completion Date occurs, the Borrower shall deliver to the Administrative Agent and Senior Lenders a monthly construction report from the Independent Engineer regarding the construction activities in relation to the Project carried out during such month based on the report delivered by the CASA Advisor under Section 3.3(j) (*Requirements of Independent Engineers*) of the P1 CASA and such other information reasonably requested by the Independent Engineer.
- (h) The Borrower shall promptly, and in any event within five Business Days, after receipt from the Operator, deliver to the Administrative Agent and the Senior Lenders a copy of any annual reports delivered pursuant to Section 3.7.4 (*Annual Reports*) of the O&M Agreement delivered to the Borrower under the O&M Agreement.
- (i) The Borrower shall:

- (i) As soon as practicable and in any event, unless otherwise specified, deliver within five Business Days after the Borrower obtains Knowledge of any of the following, written notice to the Administrative Agent of:
- (A) any cessation of material activities related to the development, construction, operation and/or maintenance of the Project not otherwise reflected in the Construction Budget and Schedule and that could reasonably be expected to exceed sixty consecutive days;
 - (B) change in ultimate beneficial ownership information of Borrower required to be provided in the Beneficial Ownership Certification most recently delivered to the Administrative Agent;
 - (C) any event, occurrence or circumstance that could reasonably be expected to cause (1) an increase of more than \$150,000,000 individually or in the aggregate in P1 Project Costs or (2) the actual expenditure with respect to any category of expenditure or any line item contained in the Annual Facility Budget to exceed the budgeted amount set forth in the Annual Facility Budget by any amount that would give rise to a vote of one or more Liquefaction Owners pursuant to the CFAA;
 - (D) (1) the outage or disability of any Train Facility or Common Facilities for a period of longer than seven days (except for regularly scheduled outages) or (2) any event which would entitle the Borrower to receive liquidated damages pursuant to Section 14.2.8 (*Subsequent Train Facilities*) of the CFAA or to receive and schedule "Default Quantities" pursuant to Section 14.2.9 (*Subsequent Train Facilities*) of the CFAA, and, in each case, any additional information available to the Borrower as may be reasonably requested by the P1 Intercreditor Agent in connection therewith;
 - (E) any proposed appointment, removal or change in the identity of the Facility Independent Engineer pursuant to the CFAA;
 - (F) any material dispute between any Loan Party and the relevant tax authorities;
 - (G) material litigation, arbitration, administrative proceeding, investigation, claim or proceeding and any material developments with respect thereto, in each case, relating to the Project (1) in which the amount involved is in excess of \$150,000,000 or (2) that could reasonably be expected to have a Material Adverse Effect;
 - (H) the commencement of commercial exports of LNG from the Rio Grande Facility;

- (I) any ERISA Event that could reasonably be expected to result in material liability to any Loan Party under ERISA or under the Code with respect to any Plan or Multiemployer Plan; and
 - (J) copies of any similar notices to those set forth in this Section 8.1(a)(i) or in Section 6.2 (*Notice of CTA Default, CTA Event of Default, and Other Events*) of the Common Terms Agreement given in connection with additional Working Capital Debt, Replacement Debt or Supplemental Debt, including any notices of any default or event of default under any other Senior Secured Debt Instrument.
- (ii) Promptly upon delivery to any Material Project Party pursuant to a Material Project Document, deliver to the Administrative Agent copies of all material written notices or other material documents delivered to such Material Project Party by the Borrower (other than routine written notices or other documents delivered in the ordinary course of the administration of such agreements), including each of the notices set forth on Exhibit I (*Rio Grande Facility Notices*) to the CFAA;
 - (iii) Promptly upon such documents becoming available (and, in the case of the documents described in clauses (iv)-(viii) below, no later than two Business Days following receipt thereof), deliver to the Administrative Agent copies of all material written notices or other material documents received by the Borrower pursuant to any Material Project Document, other than routine written notices or other documents delivered in the ordinary course of administration of such agreements, but in any event including any notice or other document relating to (A) a failure by the Borrower to perform any of its material covenants or obligations under such Material Project Document; (B) termination of a Material Project Document; (C) a force majeure event under a Material Project Document; (D) (x) any STF Development Plan received, and, upon finalization, finalized, pursuant to Section 14.2 (*Subsequent Train Facilities*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and any additional information or notice of disagreement received or modification proposed pursuant to Section 14.2.5 (*Subsequent Train Facilities*) of the CFAA (together with any information and documents received in support thereof) and (y) any notice received pursuant to Section 14.2.11 (*Subsequent Train Facilities*) of the CFAA; (E) (x) any Capital Improvement Plan received, and, upon finalization, finalized, pursuant to Section 14.3 (*Capital Improvements Generally*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and (y) any Facility Independent Engineer confirmation received pursuant to Section 14.3.7 (*Capital Improvements Generally*) of the CFAA; (F) (x) any Restoration Plan received, and, upon finalization, finalized, pursuant to Section 22.1 (*Notice; Restoration Plan*) of the CFAA (including any Facility Independent Engineer certificate relating thereto) and (y) any Facility Independent Engineer confirmation received pursuant to Section 22.2.3 (*Events of Loss Affecting Common Facilities*) of the CFAA; (G) each of the notices set forth on Exhibit I *Rio Grande Facility*

Notices) to the CFAA; and (H) each of the notices set forth in Section 2.2.3 *Delivery of Notices*) to the PAAA;

- (iv) Promptly, and in any event within five Business Days, after receipt from the P1 CASA Advisor, deliver to the Administrative Agent and the Independent Engineer a copy of any material written statement, budget, plan or reports delivered to the Borrower under the P1 CASA (including any such statements, budget, plan or report with respect to the Rio Grande Facility);
- (v) Not later than thirty days after the end of each month following the month during which the Closing Date occurs up to and including the month during which the Project Completion Date occurs, deliver to the Administrative Agent a monthly construction report from the Independent Engineer regarding the construction activities in relation to the Project carried out during such month based on the report delivered by the P1 CASA Advisor under Section 3.3(j) (*Requirements of Independent Engineers*) of the P1 CASA and such other information reasonably requested by the Independent Engineer;
- (vi) Promptly, and in any event within five Business Days, after receipt from the P1 EPC Contractor, deliver to the Administrative Agent and the Independent Engineer a copy of the Substantial Completion Certificate (as defined in each of the P1 EPC Contracts) with respect to each of Train 1, Train 2, and Train 3;
- (vii) Promptly, and in any event within five Business Days, after receipt from the Operator, deliver to the Administrative Agent and the Independent Engineer a copy of any operating and other reports (including production and maintenance forecasts, quarterly operating statements and monthly, semi-annual and annual operating reports and any other reports delivered pursuant to Section 3.7 (*Reports*) of the O&M Agreement) delivered to the Borrower under the O&M Agreement;
- (viii) Furnish the Administrative Agent:
 - (A) promptly after the filing thereof, a copy of each filing made by the Borrower (1) with FERC with respect to the Project and (2) with DOE/FE with respect to the export of LNG from, or the import of LNG to, the Project, except in the case of clause (1) or clause (2) such as are routine or ministerial in nature;
 - (B) promptly after obtaining Knowledge thereof, a copy of each filing with respect to (1) the Project made with FERC by any Person other than the Borrower in any proceeding before FERC in which the Borrower is the captioned party or respondent, except for such filings as are routine or ministerial in nature, or (2) the import of LNG to, or the export of LNG from, the Project made with DOE/FE by any Person other than the Borrower in any proceeding before DOE/FE in which the Borrower is the captioned party or

respondent, except for such filings as are routine or ministerial in nature;

- (C) any material amendment to any License, together with a copy of such amendment;
 - (D) promptly after the filing thereof, a copy of each filing, certification, waiver, exemption, claim, declaration, or registration made with respect to Licenses or DOE Export Authorizations to be obtained or filed by the Borrower with any Government Authority, except such filings, certifications, waivers, exemptions, claims, declarations, or registrations that are routine or ministerial in nature and in respect of which a failure to file could not reasonably be expected to have a Material Adverse Effect or to materially Impair any DOE Export Authorization;
 - (E) promptly upon the occurrence thereof, notice of the occurrence of each Substantial Completion Date under the T1/T2 EPC Contract;
 - (F) any material order issued by FERC or DOE/FE relating to the Project (including any Capital Improvement) or any Material Project Document; and
 - (G) in the event any Replacement Debt, Supplemental Debt, or Working Capital Debt is incurred by the Borrower, a copy of any report from the Independent Engineer and any other consultant that the Holders of such Senior Secured Debt are entitled to receive;
- (ix) Promptly, and in no event later than five Business Days, after each such document is approved in accordance with the terms of the CFAA, furnish the Administrative Agent, a copy of the Annual Facility Budget and Annual Facility Plan, the Annual Operating Budget, Annual Capital Budget, Annual Operating Plan or Annual Capital Plan that are components thereof;
 - (x) Promptly, and in no event later than five Business Days, after each such document is approved in accordance with the terms of the O&M Agreement, furnish the Administrative Agent a copy of the Annual O&M Budget and Annual O&M Plan;
 - (xi) Together with the delivery of financial statements in accordance with Section 8.1(a)(ii) in respect of each Fiscal Quarter occurring after the Project Completion Date, deliver to the Administrative Agent a certificate of a Authorized Officer of the Borrower setting forth (A) the Historical DSCR for the four Fiscal Quarter period ended on such Quarterly Payment Date and (B) the Credit Agreement Projected DSCR for the four Fiscal Quarter period commencing on such Quarterly Payment Date, in each case together with the calculation in reasonable detail and supporting data to confirm such calculations;

- (xii) No later than five Business Days after the execution thereof, deliver copies of any Additional Material Project Documents;
- (xiii) No later than five Business Days after the execution thereof, deliver copies of all material amendments, supplements or modifications (including any change order) of any Material Project Documents;
- (xiv) Prior to T1 Substantial Completion, deliver to the Administrative Agent copies of environmental and social information contained in periodic reports prepared by or for the Borrower, which will include a summary of the P1 EPC Contractor's performance against certain key performance indicators and other appropriate environmental and social statistics, such as (A) lost time incidents, (B) oil spills and releases of hazardous materials, and (C) other material environmental and social events;
- (xv) Within sixty days following each June 30 and December 31 to occur after the Closing Date and prior to T1 Substantial Completion, deliver to the Administrative Agent and the Independent Engineer a semi-annual environmental and social report prepared by the Environmental Advisor analyzing the Borrower's compliance with the Equator Principles and the Environmental and Social Action Plan;
- (xvi) Within 120 days following December 31 of each calendar year prior to the Credit Agreement Maturity Date beginning with the first calendar year following the year in which T1 Substantial Completion has occurred, deliver to the Administrative Agent and the Independent Engineer an annual environmental and social report prepared by the Environmental Advisor analyzing the Borrower's compliance with the Equator Principles and the Environmental and Social Action Plan;
- (xvii) As soon as practicable and in any event, unless otherwise specified, within seven Business Days after the Borrower obtains Knowledge of any of the following, provide written notice to the Administrative Agent of (A) any material Release of Hazardous Materials, (B) any Environmental and Social Incident (which notice may be subject to subsequent investigation and clarification), (C) any event or circumstance that could reasonably be expected to give rise to a material Environmental Claim, constitute a breach in any material respect of the Environmental and Social Action Plan, or result, or which has resulted, in a failure by the Borrower to comply in all material respects with Environmental Laws and the Equator Principles, and (D) other material written notice from Government Authorities related to any of the foregoing or otherwise related to the need to investigate, respond, clean up, or remediate Hazardous Materials or any Environmental and Social Incident;
- (xviii) As soon as practicable and in any event, unless otherwise specified, within seven Business Days following either (A) delivery to the Borrower of any report prepared for the Borrower regarding any Environmental and Social Incident or (B) the occurrence of a material development in respect of any Environmental and Social Incident, deliver to the Administrative Agent a notice, report or update, as applicable, from the Borrower (which may, but

need not, be a copy of the report referred to in sub-clause (A) above) in respect of such material development (and, for the avoidance of doubt, no such notice, report or update will require delivery of any document prepared for internal purposes);

- (xix) As soon as practicable and in any event, unless otherwise specified, deliver within five Business Days after the Borrower obtains Knowledge of any of the following, written notice to the Administrative Agent of:
- (A) the occurrence of any Event of Loss or Event of Taking in excess of \$75,000,000 in value or any series of such events or circumstances during any twelve month period in excess of \$250,000,000 in value in the aggregate, or the initiation of any insurance claim proceedings with respect to any such Event of Loss or Event of Taking;
 - (B) the occurrence of any event giving rise (or that could reasonably be expected to give rise) to a claim under any insurance policy maintained with respect to the Project in excess of \$75,000,000 with copies of any material document relating thereto that are available to the Borrower;
 - (C) any failure to pay any premium, cancellation, termination, suspension, or actual or reasonably anticipated material reductions in the coverages or amounts of any insurance required pursuant to the Insurance Program;
 - (D) any reduction in the financial rating of any insurer providing insurance such that the rating no longer meets the requirements set forth in the Insurance Program;
 - (E) any notices or other documents delivered by or to the Borrower pursuant to Exhibit E (*Insurance Requirements*) of the CFAA;
 - (F) any material claims on insurance carried by the P1 EPC Contractor under the P1 EPC Contracts and a summary of the progress and status of such claims;
 - (G) the renewal or replacement of any insurance policy required under the Insurance Program, within thirty days thereof;
 - (H) without prejudice to its other obligations under this Section 8.1(i)(xix) or the CFAA, any fact, event or circumstance that has caused, or that with the giving of notice, lapse of time or making of a determination would cause, it to be in breach of any provision of this Section 8.1(i)(xix) or the CFAA or the requirements of any of the insurance policies in the Insurance Program and (1) the steps it proposes to take in order to remedy such breach or, if such breach cannot be remedied, to mitigate the risk or liability to which the Project has been or shall reasonably be expected to be exposed by virtue of the occurrence of such breach

and (2) its good faith estimate of the period required to implement, and the cost of, such steps; and

- (l) any information equivalent to the foregoing that the Borrower has received from CFCo or InsuranceCo with respect to the Insurance Program; and
- (xx) Provide to the Administrative Agent in respect of the Borrower's gas supply requirements in connection with its then-Designated Offtake Agreements, within 45 days following the end of each calendar quarter for the first two years after commissioning of the Train Facility under and as defined in the P1 EPC Contracts and, thereafter, within 45 days following the end of each June 30 and December 31 of each calendar year, reports on the status of its gas supply arrangements (excluding any commercially sensitive trade information) for the Project during the three- or six- month period prior to the end of such quarter or semi-annual period, as applicable, including (A) a summary list of gas suppliers with which the Borrower entered into material gas supply contracts during the covered period and (B) a summary of material gas purchases made and Hedge Agreements entered into by the Borrower during the covered period, detailing aggregate outstanding contract volumes, remaining tenor (after commencement of services), price ranges of such gas purchases and hedges and aggregate gas purchase, price indexation used and hedge payables with respect to material gas supply contracts and hedges during such covered period.
- (j) In connection with each of the financial statements delivered to the Administrative Agent pursuant to this Section 8.1, shall provide the Administrative Agent with an Officer's Certificate executed by a Senior Financial Officer of the Borrower certifying that:
 - (i) such financial statements fairly present in all material respects the financial condition and results of operations of the Borrower on the dates and for the periods indicated on a consolidated basis in accordance with GAAP, subject, in the case of quarterly financial statements to the absence of notes and normal year-end audit adjustments; and
 - (ii) no Default or Event of Default or default or event of default under any Senior Secured Debt Instrument exists as of the date of such certificate or, if any Default or Event of Default, or default or event of default under any Senior Secured Debt Instrument, exists, describing the same in reasonable detail and describing what action the Borrower has taken and proposes to take with respect thereto.

8.2. Compliance Certificate

- (a) The Borrower shall deliver to the Administrative Agent, within ninety days after the end of each Fiscal Year (with the first Officer's Certificate to be delivered on or before March 31, 2024), an Officer's Certificate stating that to the signing Authorized Officer's knowledge no Default or Event of Default has occurred and is continuing (or, if a Default or Event of Default has occurred and is continuing,

describing all such Defaults or Events of Default of which he or she has knowledge and what action the Borrower is taking or proposes to take with respect thereto).

- (b) So long as any of the Senior Loans are outstanding, the Borrower will deliver to the Administrative Agent, forthwith upon any Authorized Officer becoming aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Borrower is taking or proposes to take with respect thereto.

9. EVENTS OF DEFAULT

Each of the following events or occurrences set forth in this Article 9 shall be an Event of Default.

9.1. Non-Payment of Senior Loans

The Borrower shall (a) fail to pay when due any principal of any Senior Loans (unless (i) such failure is caused by an administrative or technical error and (ii) payment is made within three Business Days of its due date), or (b) fail to pay when due any interest in respect of the Senior Loans, and such failure continues unremedied for a period of three Business Day.

9.2. Common Terms Agreement

Any "Event of Default" specified in Article 7 (*Events of Default*) of the Common Terms Agreement has occurred and is continuing and has not been Waived in accordance with the Collateral and Intercreditor Agreement; provided, that no amendment or other modification to Section 7.5 (*Bankruptcy*) of the Common Terms Agreement that results in the occurrence of a Bankruptcy with respect to the Borrower not being an "Event of Default" under such Section 7.5 (*Bankruptcy*) shall be effective with respect to the Senior Loans unless such amendment or other modification is approved by the Majority Senior Lenders.

9.3. Breach of Covenants

- (a) The Borrower defaults in the due performance and observance of any of its obligations under Section 7.2 or Section 7.18.
- (b) The Borrower defaults in the due performance and observance of any of its obligations under Section 7.4 and such failure shall result in a Material Adverse Effect.
- (c) The Borrower defaults in the due performance and observance of any of its obligations under Section 7.1 or Section 7.3 and such Default continues unremedied for a period of thirty days after the date on which the Borrower receives written notice of such Default from the Administrative Agent.
- (d) The Borrower defaults in the due performance and observance of any of its other obligations under this Agreement and such Default continues unremedied for a period of thirty days after the date on which the Borrower receives written notice

of such Default from the Administrative Agent; provided, that such period shall be ninety days with respect to Section 8.1(i).

9.4. Bankruptcy

Notwithstanding Section 7.5(b) (*Bankruptcy*) of the Common Terms Agreement, a Bankruptcy shall occur with respect to any RG Facility Entity.

9.5. Liens

The Liens in favor of the Senior Secured Parties under the Senior Security Documents shall at any time cease to constitute valid and perfected Liens granting a first priority security interest in any material portion of the Collateral (subject to Permitted Liens).

9.6. Project Completion Date

The Project fails to achieve the Project Completion Date on or before the Date Certain.

9.7. Material Project Document Defaults

- (a) Any Material Project Document (other than any Designated Offtake Agreement) (i) is expressly repudiated in writing by the Material Project Party that is the counterparty thereto and such repudiation could reasonably be expected to have a Material Adverse Effect, (ii) is declared unenforceable in a final judgment of a court of competent jurisdiction against any party, such unenforceability is not cured, and such unenforceability could reasonably be expected to have a Material Adverse Effect, or (iii) shall have been terminated or shall for any reason cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration in accordance with its terms in the ordinary course (and not related to any default or early termination right thereunder)) and such termination, failure to be valid, binding, or in full force and effect, or material Impairment could reasonably be expected to have a Material Adverse Effect; provided, that no Event of Default shall have occurred pursuant to this Section 9.7(a) if (A) such event or circumstance is cured within sixty days of such event or circumstance or (B) the Borrower notifies the Administrative Agent that it intends to replace such Material Project Document and diligently pursues such replacement and the applicable Material Project Document is replaced within ninety days with an Additional Material Project Document which has substantially similar or more favorable economic effect for the Borrower, as applicable, when taken as a whole together with any other agreements related thereto and which has substantially similar or more favorable non-economic terms (taken as a whole together with any other agreements related thereto) for the Borrower, as applicable, as the Material Project Document being replaced.
- (b) Notwithstanding Section 7.7 (*Illegality or Unenforceability*) of the Common Terms Agreement, any Necessary Senior Secured Debt Instrument or any material provision thereof, (i) is declared by a court of competent jurisdiction to be illegal or unenforceable and such unenforceability or illegality is not cured within five Business Days following the date of entry of such judgment (provided, that such five Business Day period will apply only so long as the relevant party is attempting in good faith to cure such unenforceability), (ii) should otherwise

cease to be valid and binding or in full force and effect or shall be materially Impaired (in each case, except in connection with its expiration or termination in accordance with its terms in the ordinary course (and not related to any default hereunder or thereunder)), or (iii) is expressly terminated, contested or repudiated by the Borrower.

10. REMEDIES

10.1. Acceleration Upon Bankruptcy

If any CTA Event of Default described in Section 7.5(a) (*Bankruptcy*) of the Common Terms Agreement occurs with respect to the Borrower, all outstanding Senior Loan Commitments, if any, shall automatically terminate, the outstanding principal amount of the Senior Loans and all other Obligations shall automatically be and become immediately due and payable (it being understood that no Make-Whole Amount or premium shall be payable), in each case without notice, demand or further act of the Administrative Agent or the Senior Lenders.

10.2. Acceleration Upon Other Event of Default

If any Event of Default occurs for any reason other than set forth in Section 10.1 and is continuing, the Administrative Agent may, or upon the direction of the Majority Senior Lenders shall, by written notice to the Borrower take any or all of the following actions:

- (a) declare the outstanding principal amount of the Senior Loans and all other Obligations that are not already due and payable to be immediately due and payable (it being understood that no Make-Whole Amount or premium shall be payable); and
- (b) terminate all outstanding Senior Loan Commitments.

The full unpaid amount of such Senior Loans and other Obligations that have been declared due and payable shall be and become immediately due and payable, without further notice, demand or presentment, as the case may be, and such outstanding Senior Loan Commitments shall terminate. Any declaration made pursuant to this Section 10.2 may, should the Majority Senior Lenders in their sole and absolute discretion so elect, be rescinded by written notice to the Borrower at any time after the principal of the Senior Loans has become due and payable, but before any judgment or decree for the payment of the monies so due, or any part thereof, has been entered; provided, that no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

10.3. Action Upon Event of Default

Subject to the terms of the Collateral and Intercreditor Agreement, if any Event of Default occurs for any reason and is continuing (after giving effect to any cure of the applicable Event of Default), then, the Administrative Agent may, or upon the direction of the Majority Senior Lenders shall, by written notice to the Borrower of its intention to exercise any remedies hereunder, under the other Financing Documents or at law or in equity, and without further notice of default, presentment or demand for payment, protest or notice of non-payment or dishonor, or other notices or demands of any kind, all such

notices and demands being waived by the Borrower, exercise any or all of the following rights and remedies, in any combination or order that the Administrative Agent or the Majority Senior Lenders may elect, in addition to such other right or remedies as the Administrative Agent and the Senior Lenders may have hereunder, under the other Financing Documents or at law or in equity:

- (a) pursuant to the terms of the Common Terms Agreement and the Collateral and Intercreditor Agreement, vote in favor of the taking of any and all actions necessary or desirable to implement any available remedies with respect to the Collateral under any of the P1 Collateral Documents;
- (b) without any obligation to do so, make disbursements or Senior Loans as provided in Section 2.1 to or on behalf of the Borrower to cure any Event of Default hereunder and to cure any default and render any performance under any Material Project Documents (or any other contract to which the Borrower is a party) as the Majority Senior Lenders in their sole discretion may consider necessary or appropriate, whether to preserve and protect the Collateral or the Senior Lenders' interests therein or for any other reason, and all sums so expended, together with interest on such total amount at the Default Rate, shall be Senior Secured Obligations, notwithstanding that such expenditures may, together with amounts theretofore advanced under this Agreement, exceed the amount of the Senior Loan Commitments; or
- (c) take (or vote in favor of the taking) other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the Common Terms Agreement or the Collateral and Intercreditor Agreement.

10.4. Application of Proceeds

Subject to the terms of the Collateral and Intercreditor Agreement, any moneys received by the Administrative Agent from the P1 Collateral Agent after the occurrence and during the continuance of an Event of Default and the period during which remedies have been initiated shall be applied in full or in part by the Administrative Agent against the Obligations in the following order of priority (but without prejudice to the right of the Senior Lenders, subject to the terms of the Collateral and Intercreditor Agreement, to recover any shortfall from the Borrower):

- (a) first, to payment of that portion of the Obligations constituting fees, costs, expenses (and interest owing thereon (if any)) and any other amounts (including fees, costs and expenses of counsel) payable to the Administrative Agent in its capacity as such;
- (b) second, to payment of that portion of the Obligations constituting fees, costs, expenses (and interest owing thereon (if any)) and any other amounts (including fees, costs and expenses of counsel and amounts payable under Article 4) payable to the Senior Lenders ratably in proportion to the amounts described in this clause second payable to them;

- (c) third, to payment of that portion of the Obligations constituting accrued and unpaid interest (including default interest) with respect to the Senior Loans, payable to the Senior Lenders ratably in proportion to the respective amounts described in this clause third payable to them;
- (d) fourth, to payment, on *apro rata* basis, of that principal amount of the Senior Loans payable to the Senior Lenders (in inverse order of maturity), ratably among the Senior Lenders in proportion to the respective amounts described in this clause fourth held by them; and
- (e) fifth, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by applicable Government Rule.

11. THE ADMINISTRATIVE AGENT

11.1. Appointment and Authority

- (a) Each of the Senior Lenders hereby appoints, designates and authorizes Wilmington Trust, National Association, as its Administrative Agent under and for purposes of each Financing Document to which the Administrative Agent is a party, and in its capacity as the Administrative Agent, to act on its behalf as Senior Secured Debt Holder Representative for the Senior Lenders. Wilmington Trust, National Association hereby accepts this appointment and agrees to act as the Administrative Agent for the Senior Lenders in accordance with the terms of this Agreement, and to act as Senior Secured Debt Holder Representative for the Senior Lenders in accordance with the Common Terms Agreement. Each of the Senior Lenders appoints and authorizes the Administrative Agent to act on behalf of such Senior Lender under each Financing Document to which it is a party (including each reliance letter provided under Section 6.1(g)) and in the absence of other written instructions from the Majority Senior Lenders received from time to time by the Administrative Agent (with respect to which the Administrative Agent agrees that it will comply, except as otherwise provided in this Section 11.1 or as otherwise advised by counsel, and subject in all cases to the terms of the Collateral and Intercreditor Agreement), to exercise such powers hereunder and thereunder as are specifically delegated to or required of the Administrative Agent by the terms hereof and thereof, together with such powers as may be reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in any Financing Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Senior Lender or other Credit Agreement Senior Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into any Financing Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” in this Agreement with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Government Rule. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

- (b) The provisions of this Section 11.1 are solely for the benefit of the Administrative Agent and the Senior Lenders, and neither the Borrower nor any other Person shall have rights as a third party beneficiary of any of such provisions other than the Borrower's rights under Section 11.7(a) and Section 11.7(b).

11.2. Rights as a Senior Lender

Each Person serving as the Administrative Agent hereunder or under any other Financing Document shall have the same rights and powers in its capacity as a Senior Lender, as the case may be, as any other Senior Lender and may exercise the same as though it were not the Administrative Agent. Each such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or Affiliates of the Borrower as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to any Senior Lender.

11.3. Exculpatory Provisions

- (a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Financing Documents to which it is a party. Without limiting the generality of the foregoing, the Administrative Agent shall not:
- (i) be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;
 - (ii) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Financing Documents that the Administrative Agent is required to exercise as directed in writing by the Majority Senior Lenders (or such other number or percentage of the Senior Lenders as shall be expressly provided for herein or in the other Financing Documents); provided, that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may require the Administrative Agent to expend or risk its own funds or expose the Administrative Agent to liability or that is contrary to any Financing Document or applicable Government Rule;
 - (iii) except as expressly set forth herein and in the other Financing Documents, have any duty to disclose, nor shall the Administrative Agent be liable for any failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity; or
 - (iv) incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Administrative Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, other unavailability of the Federal Reserve Bank wire or facsimile or other wire communication facility).

- (b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the prior written consent or at the request of the Majority Senior Lenders (or such other number or percentage of the Senior Lenders as may be necessary, or as the Administrative Agent may believe in good faith to be necessary, under the circumstances as provided in Section 12.1) or (ii) in the absence of its own gross negligence or willful misconduct, as determined by a final and Non-Appealable judgment of a court of competent jurisdiction. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to the Administrative Agent in writing by the Borrower or a Senior Lender.
- (c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Financing Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith (including any Financing Document to which it is not a party), (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence or continuance of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Financing Document or any other agreement, instrument or document, or the perfection or priority of any Lien or security interest created or purported to be created by any Senior Security Document, or (v) the satisfaction of any condition set forth in Article 6 or elsewhere herein, other than to confirm receipt of any items expressly required to be delivered to the Administrative Agent.

11.4. Reliance by Administrative Agent

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Senior Loan that by its terms must be fulfilled to the satisfaction of any Senior Lender, the Administrative Agent may presume that such condition is satisfactory to such Senior Lender unless the Administrative Agent has received notice to the contrary from such Senior Lender prior to the making of such Senior Loan. Before the Administrative Agent acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Administrative Agent will not be liable for any action it takes, suffers or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

11.5. Delegation of Duties

The Administrative Agent may perform any and all of its duties and exercise any and all its rights and powers hereunder or under any other Financing Document by or through

any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article 11 shall apply to any such sub-agent and to the Related Parties of the Administrative Agent, and shall apply to all of their respective activities in connection with their acting as or for the Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and Non-Appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection or supervision of such sub-agents.

11.6. Request for Indemnification by the Senior Lenders

The Administrative Agent shall be fully justified in taking, refusing to take or continuing to take any action hereunder unless it shall first be indemnified to its satisfaction by the Senior Lenders against any and all liability and expense which may be incurred by it by reason of taking, refusing to take or continuing to take any such action.

11.7. Resignation or Removal of Administrative Agent

- (a) The Administrative Agent may resign from the performance of all its functions and duties hereunder and under the other Financing Documents at any time by giving thirty days' prior notice to the Borrower, the P1 Collateral Agent, and the Senior Lenders. In the event Wilmington Trust, National Association is no longer the Administrative Agent, any successor Administrative Agent may be removed at any time with cause by the Majority Senior Lenders. Any such resignation or removal shall take effect upon the appointment of a successor Administrative Agent, in accordance with this Section 11.7.
- (b) Upon any notice of resignation by the Administrative Agent or upon the removal of the Administrative Agent by the Majority Senior Lenders or any Senior Lender in accordance with Section 11.7(a), the Majority Senior Lenders shall appoint a successor Administrative Agent, hereunder and under each other Financing Document to which the Administrative Agent is a party, such successor Administrative Agent to be a commercial bank (i) that has a combined capital and surplus of at least \$1,000,000,000 and (ii) that is a FATCA Exempt Party; provided, that if no Default or Event of Default shall then be continuing, appointment of a successor Administrative Agent shall also be acceptable to the Borrower (such acceptance not to be unreasonably withheld, conditioned or delayed). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor.
- (c) If no successor Administrative Agent has been appointed by the Majority Senior Lenders within thirty days after the date such notice of resignation was given by such resigning Administrative Agent, such Administrative Agent's resignation shall nevertheless become effective and the Majority Senior Lenders shall thereafter perform all the duties of such Administrative Agent hereunder and/or under any other Financing Document until such time, if any, as the Majority Senior Lenders appoint a successor Administrative Agent. If no successor Administrative Agent has been appointed by the Majority Senior Lenders within

thirty days after the date the Majority Senior Lenders elected to remove such Person, any Credit Agreement Senior Secured Party may petition any court of competent jurisdiction for the appointment of a successor Administrative Agent. Such court may thereupon, after such notice, if any, as it may deem proper, appoint a successor Administrative Agent, who shall serve as Administrative Agent hereunder and under each other Financing Document to which it is a party until such time, if any, as the Majority Senior Lenders appoint a successor Administrative Agent, as provided above.

- (d) Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent, and the retiring (or removed) Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Financing Documents and the replaced Administrative Agent shall make available to the successor Administrative Agent such records, documents and information in the replaced Administrative Agent's possession and provide such assistance as the successor Administrative Agent may reasonably request in connection with its appointment as the successor Administrative Agent. After the retirement or removal of the Administrative Agent hereunder and under the other Financing Documents, the provisions of this Article 11 and Section 12.8 shall continue in effect for the benefit of such retiring (or removed) Person, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Person was acting in its capacity as Administrative Agent.
- (e) Any corporation or association into which the Administrative Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Administrative Agent is a party, will be and become the successor Administrative Agent under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

11.8. No Amendment to Duties of Administrative Agent Without Consent

The Administrative Agent shall not be bound by any waiver, amendment, supplement or modification of this Agreement or any other Financing Document that affects its rights or duties hereunder or thereunder unless such Administrative Agent shall have given its prior written consent, in its capacity as Administrative Agent thereto.

11.9. Non-Reliance on Administrative Agent and Senior Lenders

Each of the Senior Lenders acknowledges that it has, independently and without reliance upon the Administrative Agent, any other Senior Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and make its extensions of credit. Each of the Senior Lenders also acknowledges that it will, independently and without reliance upon the Administrative Agent any other Senior Lender or any of their

Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Financing Document or any related agreement or any document furnished hereunder or thereunder.

11.10. Copies

The Administrative Agent shall give prompt notice to each Senior Lender of receipt of each written notice or request required or permitted to be given to the Administrative Agent by the Borrower pursuant to the terms of this Agreement or any other Financing Document (unless concurrently delivered to the Senior Lenders by the Borrower). The Administrative Agent will distribute to each Senior Lender each document and other written communication received by the Administrative Agent from the Borrower for distribution to the Senior Lenders by the Administrative Agent in accordance with the terms of this Agreement or any other Financing Document.

11.11. Erroneous Payments

- (a) If the Administrative Agent (i) notifies a Senior Lender, or any Person who has received funds on behalf of a Senior Lender (any such Senior Lender or other recipient (and each of their respective successors and assigns), a “**Payment Recipient**”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice from the Administrative Agent) received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Senior Lender or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “**Erroneous Payment**”) and (ii) demands in writing the return of such Erroneous Payment (or a portion thereof) provided, that, without limiting any other rights or remedies (whether at law or in equity), the Administrative Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within five Business Days of the date of receipt of such Erroneous Payment by the applicable Payment Recipient), such Erroneous Payment shall at all times remain the property of the Administrative Agent pending its return or repayment as contemplated below in this Section 11.11 and held in trust for the benefit of the Administrative Agent, and such Senior Lender shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the Administrative Agent may, in its sole discretion, specify in writing), return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank

compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

- (b) Without limiting immediately preceding clause (a), each Senior Lender or any Person who has received funds on behalf of a Senior Lender (and each of their respective successors and assigns), agrees that if it receives a payment, prepayment, or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution, or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Senior Lender or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:
- (i) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and
 - (ii) such Senior Lender shall use commercially reasonable efforts to (and shall use commercially reasonable efforts to cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y), and (z)) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 11.11(b).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 11.11(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 11.11(a) or on whether or not an Erroneous Payment has been made.

- (c) Each Senior Lender hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Senior Lender under any Financing Document, or otherwise payable or distributable by the Administrative Agent to such Senior Lender under any Financing Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the Administrative Agent has demanded to be returned under immediately preceding clause (a).
- (d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor in accordance

with immediately preceding clause (a), from any Senior Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an **"Erroneous Payment Return Deficiency"**), upon the Administrative Agent's notice to such Senior Lender at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (i) such Senior Lender shall be deemed to have assigned its Senior Loans (but not its Senior Loan Commitments) with respect to which such Erroneous Payment was made (the **"Erroneous Payment Impacted Class"**) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Senior Loans (but not Senior Loan Commitments) of the Erroneous Payment Impacted Class, the **"Erroneous Payment Deficiency Assignment"**) (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance)), and is hereby (together with the Borrower) deemed to execute and deliver a Lender Assignment Agreement with respect to such Erroneous Payment Deficiency Assignment, and such Senior Lender shall deliver any Senior Loan Notes evidencing such Senior Loans to the Borrower or the Administrative Agent (but the failure of such Person to deliver any such Senior Loan Notes shall not affect the effectiveness of the foregoing assignment), (ii) the Administrative Agent as the assignee Senior Lender shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Senior Lender shall become a Senior Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Senior Lender shall cease to be a Senior Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Senior Loan Commitments which shall survive as to such assigning Senior Lender, (iv) the Administrative Agent and the Borrower shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (v) the Administrative Agent will reflect in the Register its ownership interest in the Senior Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Senior Loan Commitments of any Senior Lender and such Senior Loan Commitments shall remain available in accordance with the terms of this Agreement.

- (e) Subject to Section 12.4, the Administrative Agent may, in its discretion, sell any Senior Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Senior Lender shall be reduced by the net proceeds of the sale of such Senior Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies, and claims against such Senior Lender (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Senior Lender (i) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the Administrative Agent on or with respect to any such Senior Loans acquired from such Senior Lender pursuant to an

Erroneous Payment Deficiency Assignment (to the extent that any such Senior Loans are then owned by the Administrative Agent) and (ii) may, in the sole discretion of the Administrative Agent, be reduced by any amount specified by the Administrative Agent in writing to the applicable Senior Lender from time to time.

- (f) The parties hereto agree that (i) irrespective of whether the Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Senior Lender to the rights and interests of such Senior Lender as the case may be) under the Financing Documents with respect to such amount (the “**Erroneous Payment Subrogation Rights**”) and (ii) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower; provided, that this Section 11.11 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; provided, further, that for the avoidance of doubt, immediately preceding clauses (i) and (ii) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from, or on behalf of (including through the exercise of remedies under any Financing Document), the Borrower for the purpose of a payment on the Obligations.
- (g) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including, without limitation, any defense based on “discharge for value” or any similar doctrine.
- (h) Notwithstanding anything to the contrary herein or in any other Financing Document, neither any Loan Party nor any of its respective Affiliates shall have any obligations or liabilities (including the payment of any assignment or processing fee payable to the Administrative Agent in connection therewith) directly or indirectly arising out of this Section 11.11 in respect of any Erroneous Payment (other than having consented to the assignment referenced in clause (d) above).
- (i) Each party's obligations, agreements and waivers under this Section 11.11 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Senior Lender, the termination of the applicable Senior Loan Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Financing Document.

12. MISCELLANEOUS PROVISIONS

12.1. Amendments, Etc.

(a) Without Consent of Senior Lenders

- (i) Notwithstanding clause (b) and subject to the terms of the Collateral and Intercreditor Agreement, the Borrower and the Administrative Agent may amend or supplement this Agreement or any other Bank Financing Document without the consent of any Senior Lender and the P1 Collateral Agent:
 - (A) to cure any ambiguity, defect or inconsistency;
 - (B) to make any change that would provide any additional rights or benefits to the Senior Lenders or that does not adversely affect the legal rights hereunder of any Senior Lender;
 - (C) to provide for a successor Administrative Agent in accordance with the provisions of this Agreement; or
 - (D) to provide for the assumption of the Borrower's obligations to the Senior Lenders by a successor to the Borrower pursuant to Section 7.18;
- (ii) Upon the request of the Borrower accompanied by a resolution duly adopted by the authorized governing body authorizing the execution of any such amendment, and upon receipt by the Administrative Agent of the documents described in Section 11.4, the Administrative Agent will join with the Borrower in the execution of any amendment authorized or permitted by the terms of this Agreement and to make any further appropriate agreements and stipulations that may be therein contained, but the Administrative Agent will not be obligated to enter into such amendment that affects its own rights, duties or immunities under this Agreement or otherwise.

(b) With Consent of Senior Lenders

- (i) Except as otherwise provided in this Section 12.1 and subject to the terms of the Collateral and Intercreditor Agreement, neither this Agreement nor any provision hereof may be amended, modified, or waived unless in writing signed by the Borrower and the Majority Senior Lenders or the Administrative Agent as directed by the Majority Senior Lenders, and each such amendment, modification, or waiver shall be effective only in the specific instance and for the specific purpose for which given; provided, that:
 - (A) the consent of each Senior Lender (in each case, other than any Senior Lender that is a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof) directly and adversely affected

thereby will be required with respect to any amendment, modification or waiver in order to:

- (1) extend or increase any Senior Loan Commitment;
 - (2) extend the maturity date or postpone any date scheduled for any payment of principal, fees or interest (as applicable) under Section 3.1, Section 3.2, Section 3.7, or Section 3.10 or any date fixed by the Administrative Agent for the payment of fees or other amounts due to the Senior Lenders (or any of them) hereunder;
 - (3) reduce the principal of, or the interest or rate of interest specified herein on, any Senior Loan or any Fees or other amounts (including any amounts payable pursuant to Section 3.7(a) or Section 3.7(b)) payable to any Senior Lender hereunder;
 - (4) change the pro-rata treatment, sharing of payments, order of application of any reduction in any Senior Loan Commitments from the application thereof set forth in the applicable provisions of Section 2.4, Section 3.6, Section 3.7, Section 3.11, Section 3.12 or Section 10.4, respectively, in any manner; or
 - (5) contractually subordinate the Liens in favor of the P1 Collateral Agent over the Collateral under and pursuant to the Senior Security Documents to Liens over of the Collateral securing any other Indebtedness (it being understood that this clause (5) shall not (i) override the permission for (x) Permitted Liens or (y) Indebtedness permitted by the Financing Documents or (ii) apply to the incurrence of financing provided to the Borrower pursuant to Section 364 of the Bankruptcy Code or any similar proceeding under any other applicable Debtor Relief Laws);
- (B) the consent of each Senior Lender (in each case, other than any Senior Lender that is a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof) will be required with respect to any amendment, modification or waiver in order to:
- (1) waive any condition set forth in Section 6.1;
 - (2) change any provision of this Section 12.1, the definition of Majority Senior Lenders or any other provision hereof specifying the number or percentage of Senior Lenders required to amend, waive, terminate or otherwise modify any rights hereunder or make any determination or grant any consent hereunder;

- (3) subject to all other provisions of this Section 12.1, release or allow release of (i) all or substantially all of the guarantee obligations or the value of any guarantee of the applicable RG Facility Entities as Common Guarantors under and as defined in the Common Accounts Agreement other than in accordance with the terms of the Common Accounts Agreement or (ii) all or any material portion of the Collateral from the Lien of any of the Senior Security Documents (other than (1) upon the sale, conveyance, lease, transfer, or other disposal of assets that do not constitute all or substantially all of the assets of the Borrower or (2) the termination, assignment, or other disposition of Material Project Documents in accordance with the Financing Documents); or
 - (ii) amend, modify, waive, or supplement the terms of Section 12.4.
 - (iii) Upon the request of the Borrower accompanied by a resolution duly adopted by the authorized governing body of the Borrower authorizing the execution of any such amendment, and upon the filing with the Administrative Agent of evidence satisfactory to the Administrative Agent of the consent of the Senior Lenders as aforesaid, and upon receipt by the Administrative Agent of the documents described in Section 11.4, the Administrative Agent will join with the Borrower in the execution of such amendment unless such amendment directly affects the Administrative Agent's own rights, duties or immunities under this Agreement or otherwise, in which case the Administrative Agent may in its discretion, but will not be obligated to, enter into such amendment.
 - (iv) It is not necessary for the consent of the Senior Lenders under this clause (b) to approve the particular form of any proposed amendment or waiver, but it is sufficient if such consent approves the substance thereof.
 - (v) Promptly after an amendment or waiver under this clause (b) becomes effective, the Borrower will mail or cause to be mailed to the Senior Lenders affected thereby a notice briefly describing the amendment or waiver and executed or true and correct copies of each amendment, waiver or consent effected. Any failure of the Borrower to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amendment, waiver or consent.
- (c) Decisions under Other Financing Documents
- (i) Notwithstanding any provision of this Agreement or the Collateral and Intercreditor Agreement to the contrary, each Senior Lender shall be deemed to have consented to, and the Administrative Agent shall be deemed, without the requirement of any vote or consent by the Senior Lenders and without seeking vote, consent or direction by or from the Senior Lenders with respect to any of the clauses set forth below, to have voted as follows:

- (A) unless a proposed Economic Terms Modification applies only to the Senior Loans, the Administrative Agent shall be deemed to have voted in favor of any such Economic Terms Modification if (1) any such Economic Terms Modification is approved by each Senior Secured Bank Debt Holder Representative (if any) in accordance with the Collateral and Intercreditor Agreement and (2) the Borrower certifies to the Administrative Agent, as set forth in a certificate of an Authorized Officer of the Borrower, that such Economic Terms Modification could not reasonably be expected to result in a Material Adverse Effect;
- (B) the Administrative Agent shall be deemed to have cast its vote in favor of any amendment, supplement, or waiver of the provisions of the Collateral and Intercreditor Agreement and P1 Accounts Agreement related to the application of Collateral Proceeds, the *pari passu* ranking of the Senior Secured Debt, or the priority, deposit, and application of funds in the accounts (in each case prior to an enforcement action) if (1) approved by each Senior Secured Bank Debt Holder Representative (if any) in accordance with the Collateral and Intercreditor Agreement and (2) the Borrower certifies to the Administrative Agent, as set forth in a certificate of an Authorized Officer of the Borrower, that such amendment, supplement or waiver does not result in (x) the Senior Loans receiving payments that are less than *pari passu* with the Senior Secured Bank Debt (other than due to timing differences in when payments are due on the Senior Loans in accordance with their terms) and (y) does not result in a material adverse change (when considered with all other such amendments, supplements, and waivers) in (I) the priority within Section 3.3 (*P1 Revenue Account*) and 3.9 (*P1 Proceeds Account*) of the P1 Accounts Agreement with respect to any payment of principal, interest, or other amounts payable (whether by prepayment, upon acceleration, or otherwise) under the Senior Loans or (II) the funding of the Senior Loans DSRA;
- (C) the Administrative Agent shall be deemed to have cast its vote in favor of any Modification to provisions of the Collateral and Intercreditor Agreement or the P1 Accounts Agreement related to the application of proceeds of Replacement Debt to the mandatory prepayment of Senior Secured Debt under the CD Credit Agreement or the TCF Credit Agreement, as applicable, if approved by the Senior Secured Bank Debt Holder Representative under the CD Credit Agreement or the TCF Credit Agreement, as applicable, in accordance with the Collateral and Intercreditor Agreement;
- (D) the Administrative Agent shall be deemed to have cast its vote in favor of any Modification of any P1 Collateral Document (other than the Collateral and Intercreditor Agreement) if (1) approved by each Senior Secured Bank Debt Holder Representative (if any) in accordance with the Collateral and Intercreditor Agreement and

- (2) the Borrower certifies to the Administrative Agent, as set forth in a certificate of an Authorized Officer of the Borrower, that such Modification is not materially adverse to the Senior Lenders; and
- (E) the Administrative Agent shall be deemed to have consented to the release of any Lien on any portion of the Collateral (other than a release of Collateral that comprises all or substantially all of the Collateral) or assets owned by any RG Facility Entity if (1) the Borrower certifies to the Administrative Agent, as set forth in a certificate of an Authorized Officer of the Borrower, that such release is reasonable and such Collateral or assets are not reasonably required for the operation of the RG Facility Entities in accordance with the RG Facility Agreements and (2) the Independent Engineer concurs with such certification.
- (ii) The Administrative Agent shall not vote in favor of amendments of, supplements to, or waivers of the Common Terms Agreement (other than Administrative Decisions) unless it first receives the affirmative vote of the Majority Senior Lenders. If the Administrative Agent has not received the affirmative vote of the Majority Senior Lenders on or prior to the date by which it must cast its vote in accordance with the Collateral and Intercreditor Agreement, then the Administrative Agent shall vote against the relevant Modification.
- (iii) Upon receipt of a request from the Borrower to direct the removal of the P1 Intercreditor Agent or the P1 Collateral Agent and direct the appointment of a replacement P1 Intercreditor Agent or P1 Collateral Agent in accordance with the terms of the Collateral and Intercreditor Agreement, the Administrative Agent shall give notice of such request to the Senior Lenders. Unless Senior Lenders representing more than 25% of the aggregate outstanding principal amount of the Senior Loans object to such request within thirty days, the Administrative Agent shall provide such direction on the immediately succeeding Business Day after such thirtieth day.
- (iv) Except as set forth in this clause (c), the Administrative Agent shall not consent to amendments of, supplements to, or waivers of the P1 Collateral Documents (other than Administrative Decisions) unless it first receives the affirmative vote of the Majority Senior Lenders.
- (v) Upon receipt of a certificate of an Authorized Officer of the Borrower and without the requirement of any vote or consent by the Senior Lenders, the Administrative Agent shall consent to any Administrative Decisions pursuant to the Collateral and Intercreditor Agreement.
- (vi) Prior to voting in accordance with this clause (c), the Administrative Agent shall have received a certificate from an Authorized Officer of the Borrower, which certificate shall set forth (A) the vote or consent the Administrative Agent is directed to make as required by this clause (c) in connection with any vote required by the Administrative Agent as Senior Secured Debt Holder Representative under the Collateral and Intercreditor

Agreement or any other P1 Financing Document and (B) the relevant subsection of this clause (c) pursuant to which such vote is required.

- (d) In determining whether the Senior Lenders of the required principal amount of Senior Loans have concurred in any direction, waiver or consent, any Senior Lender that is a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof will be considered as though not outstanding. For purposes of determining whether the Administrative Agent will be protected in relying on any such direction, waiver or consent, only Senior Lenders that the Administrative Agent knows is a Loan Party, an Equity Owner or an Affiliate or Controlled Subsidiary thereof will be so disregarded.

12.2. Entire Agreement

- (a) This Agreement, the other Financing Documents and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof.
- (b) In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument (including the Common Terms Agreement), the terms, conditions and provisions of this Agreement shall prevail.

12.3. Governing Law; Jurisdiction; Etc.

- (a) GOVERNING LAW. THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA.
- (b) SUBMISSION TO JURISDICTION. TO THE EXTENT PERMITTED BY GOVERNMENT RULES, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER FINANCING DOCUMENT SHALL AFFECT ANY

RIGHT THAT ANY PARTY HERETO MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION IF GOVERNMENT RULES DOES NOT PERMIT A CLAIM, ACTION OR PROCEEDING REFERRED TO IN THE FIRST SENTENCE OF THIS SECTION 12.3(b) TO BE FILED, HEARD OR DETERMINED IN OR BY THE COURTS SPECIFIED THEREIN.

- (c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT IN ANY COURT REFERRED TO IN SECTION 12.3(b). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY GOVERNMENT RULES, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.
- (d) Service of Process. Each Party hereto irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Person at its then effective notice addresses pursuant to Section 12.11.
- (e) Immunity. To the extent that the Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, the Borrower hereby irrevocably and unconditionally waives such immunity in respect of its obligations under the Financing Documents and, without limiting the generality of the foregoing, agrees that the waiver set forth in this Section 12.3(e) shall have the fullest scope permitted under the Foreign Sovereign Immunities Act of 1976 of the United States and is intended to be irrevocable for purposes of such act.
- (f) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER FINANCING DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER FINANCING

DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 12.3.

12.4. Assignments

- (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each of the Senior Lenders and the Administrative Agent (and any attempted assignment or other transfer by the Borrower without such consent shall be null and void), and no Senior Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with Section 12.4(b), (ii) by way of participation in accordance with Section 12.4(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 12.4(e) (and any other attempted assignment or transfer by any Party hereto shall be null and void).
- (b)
 - (i) Subject to Section 12.4(h) and this Section 12.4(b), any Senior Lender may at any time after the Senior Loan Borrowing Date assign to one or more Persons all or a portion of its rights and obligations under this Agreement (including its participations in the Senior Loans at the time owing to it).
 - (ii) If the assignee is not a Senior Lender prior to such assignment, it shall deliver to the Administrative Agent an administrative questionnaire and all documentation and other information required by bank regulatory authorities under applicable KYC Requirements.
 - (iii) Except in the case of an assignment of the entire remaining amount of the assigning Senior Lender's Senior Loans, the outstanding Senior Loans subject to each such assignment (determined as of the date of the Lender Assignment Agreement with respect to such assignment is delivered to the Administrative Agent or, if a "Trade Date" is specified in the Lender Assignment Agreement, as of such date) shall not be less than \$100,000 and in integral multiples of \$1,000 unless the Borrower otherwise consents.
 - (iv) The parties to each assignment shall execute and deliver to the Administrative Agent a Lender Assignment Agreement, together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the Administrative Agent's sole discretion).
 - (v) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 2.5(b), from and after the effective date specified in each Lender Assignment Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Lender Assignment Agreement, have the rights and obligations of a Senior Lender under this Agreement, and the assigning Senior Lender thereunder

shall, to the extent of the interest assigned by such Lender Assignment Agreement, be released from its obligations under this Agreement (and, in the case of a Lender Assignment Agreement covering all of the assigning Senior Lender's rights and obligations under this Agreement, such Senior Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Section 4.2, Section 8.7 (*Costs and Expenses*) of the Common Terms Agreement, Section 8.6 (*Expenses*) of the P1 Security Agreement, and Section 4.7 (*Fees; Expenses*) of the P1 Accounts Agreement with respect to facts and circumstances occurring prior to the effective date of such assignment.

- (vi) Upon request, the Borrower (at its expense) shall execute and deliver the applicable Senior Loan Notes to the assignee Senior Lender and/or revised Senior Loan Notes to the assigning Senior Lender reflecting such assignment.
 - (vii) Any assignment or transfer by a Senior Lender of rights or obligations under this Agreement that does not comply with this Section 12.4(b) shall be treated for purposes of this Agreement as a sale by such Senior Lender of a participation in such rights and obligations in accordance with Section 12.4(d).
- (c) The Administrative Agent shall maintain the Register in accordance with Section 2.5(b) above.
- (d) Any Senior Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) (each, a "**Participant**") in all or a portion of such Senior Lender's rights or obligations under this Agreement (including all or a portion of its Senior Loan Commitment or the Senior Loans owing to it); provided, that (i) such Senior Lender's obligations under this Agreement shall remain unchanged, (ii) such Senior Lender remains solely responsible to the other parties hereto for the performance of such obligations and such participation shall not give rise to any legal privity between the Borrower and the Participant, and (iii) the Borrower, the Administrative Agent, the P1 Collateral Agent, and the other Senior Lenders shall continue to deal solely and directly with such Senior Lender in connection with such Senior Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Senior Lender shall be responsible for the indemnity under Section 12.8 with respect to any payments made by such Senior Lender to its Participant(s). Any agreement or instrument pursuant to which a Senior Lender sells such a participation shall provide that such Senior Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided, that such agreement or instrument may provide that such Senior Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the proviso to Section 12.1(b)(i) that directly affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Section 4.2 (subject to the requirements and limitations therein, including the requirements under Section 4.2(g) (it being understood that any documentation

required under Section 4.2 shall be delivered to the participating Senior Lender)) to the same extent as if it were a Senior Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 12.4; provided, that such Participant (A) agrees to be subject to the provisions of Section 4.1 as if it were an assignee under clause (b) of this Section 12.4; and (B) shall not be entitled to receive any greater payment under Section 4.2, with respect to any participation, than its participating Senior Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Senior Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 4.1 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.14 as though it were a Senior Lender; provided, that such Participant agrees to be subject to Section 4.1 as though it were a Senior Lender. Each Senior Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the applicable Senior Loans or other obligations under the Financing Documents (the "**Participant Register**"); provided, that no Senior Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any Financing Document) to any other Person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and Proposed Treasury Regulations Section 1.163-5(b) and within the meaning of Sections 163(f), 871(h)(2), and 881(c)(2) of the Code and any related United States Treasury Regulations (or any other relevant or successor provisions of the Code or of such United States Treasury Regulations). The entries in the Participant Register shall be conclusive absent manifest error, and such Senior Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

- (e) Any Senior Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Senior Loan Notes, if any) to secure obligations of such Senior Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction; provided, that no such pledge or assignment shall release such Senior Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Senior Lender as a Party hereto.
- (f) Any Senior Lender may at any time, assign all or a portion of its rights and obligations with respect to Senior Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender through (i) Dutch auctions open to all Senior Lenders on a *pro rata* basis in accordance with the procedures set forth on Exhibit E hereto or (ii) open market purchases on *apro rata* or non-*pro rata* basis, in each case subject to the following limitations:

- (A) the assigning Senior Lender and the Affiliated Lender purchasing such Senior Lender's Senior Loans shall execute and deliver to the Administrative Agent an assignment agreement substantially in the form of Exhibit C-2 hereto (an "**Affiliated Lender Assignment Agreement**");
 - (B) Affiliated Lenders will not receive information provided solely to Senior Lenders by the Administrative Agent or any Senior Lender and will not be permitted to attend or participate in conference calls or meetings attended solely by the Senior Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Senior Loans or Senior Loan Commitments required to be delivered to Senior Lenders pursuant to Article 1.5;
 - (C) the aggregate principal amount of Senior Loans held at any one time by Affiliated Lenders shall not exceed 25% of the principal amount of all Senior Loans at such time outstanding (measured at the time of purchase) (such percentage, the "**Affiliated Lender Cap**"); provided, that, to the extent any assignment to an Affiliated Lender would result in the aggregate principal amount of all Senior Loans held by Affiliated Lenders exceeding the Affiliated Lender Cap, the assignment of such excess amount will be void *ab initio*; and
 - (D) as a condition to each assignment pursuant to this Section 12.4(f), the Administrative Agent shall have been provided a notice in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender pursuant to which such Affiliated Lender shall waive any right to bring any action in connection with such Senior Loans against the Administrative Agent, in its capacity as such.
- (g) The words "*execution*," "*signed*," "*signature*," and words of like import in any Lender Assignment Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.
- (h) All assignments by a Senior Lender of all or a portion of its rights and obligations hereunder with respect to any then outstanding Senior Loan Commitments shall be made only as an assignment of the same percentage of outstanding Senior Loan Commitments and Senior Loans and a proportionate part of all the assigning Senior Lender's rights and obligations under this Agreement with respect to the Senior Loans and Senior Loan Commitments.

- (i) No sale, assignment, transfer, negotiation or other disposition of the interests of any Senior Lender hereunder or under the other Financing Documents shall be allowed if it could reasonably be expected to require securities registration under any laws or regulations of any applicable jurisdiction.

12.5. Benefits of Agreement

Nothing in this Agreement or any other Financing Document, express or implied, shall be construed to give to any Person, other than the parties hereto, the P1 Intercreditor Agent, the P1 Collateral Agent, each of their successors and permitted assigns under this Agreement or any other Financing Document, Participants to the extent provided in Section 12.4 and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the P1 Collateral Agent, the P1 Intercreditor Agent, and the Senior Lenders, any benefit or any legal or equitable right or remedy under this Agreement.

12.6. Costs and Expenses

The Borrower shall pay (a) all reasonable and documented out-of-pocket expenses incurred by each of the Administrative Agent, the P1 Collateral Agent, and the Senior Lenders and their Affiliates (including all reasonable fees, costs and expenses of counsel to the Administrative Agent, the P1 Collateral Agent, and one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the preparation, negotiation, syndication, execution and delivery of this Agreement and the other Financing Documents; (b) all reasonable and documented out of pocket expenses incurred by the Administrative Agent, the P1 Collateral Agent, and the Senior Lenders (including all reasonable fees, costs and expenses of counsel to the Administrative Agent, counsel to the P1 Collateral Agent, and one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with any amendments, modifications or waivers of the provisions of this Agreement and the other Financing Documents (whether or not the transactions contemplated hereby or thereby are consummated); (c) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and the P1 Collateral Agent (including all reasonable fees, costs and expenses of counsel to the Administrative Agent, counsel to the P1 Collateral Agent, and one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the administration of this Agreement and the other Financing Documents (whether or not the transactions contemplated hereby or thereby are consummated); and (d) all documented out-of-pocket expenses incurred by the Credit Agreement Senior Secured Parties

(including all reasonable fees, costs and expenses of one counsel plus one local counsel for the Senior Lenders and their Affiliates in each relevant jurisdiction (provided, that, in the case of the continuation of an Event of Default, any Senior Lender may retain separate counsel in the event of an actual conflict of interest (which may be multiple counsel, but only the least number necessary to resolve such conflict of interest) and the Borrower shall pay all reasonable fees, cost and expenses of such additional counsel)) in connection with the enforcement or protection (other than in connection with assignment of Senior Loans or Senior Loan Commitments) of their rights in connection with this Agreement and the other Financing Documents, including their rights under this Section 12.6, including in connection with any workout, restructuring or negotiations in respect of the Obligations. Notwithstanding the foregoing, in the event that the P1 Collateral Agent reasonably believes that a conflict exists in using one counsel, the P1 Collateral Agent may engage its own counsel. Furthermore, notwithstanding anything to the contrary in Section 8.6 (*Consultants*) of the Common Terms Agreement, during the continuation of any Event of Default, the Borrower shall pay (against direct invoices) the reasonable and documented fees and expenses of any other consultants and advisors of the Credit Agreement Senior Secured Parties (in addition to the Consultants as provided in such Section 8.6 (*Consultants*) of the Common Terms Agreement); provided, that (without limiting the obligation of the Borrower to pay such reasonable and documented fees and expenses) such fees and expenses shall be subject to separate fee agreements entered into by the Borrower acting reasonably.

12.7. Counterparts; Effectiveness

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the Administrative Agent and when the Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or portable document format ("pdf") shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or the electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Government Rule, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

12.8. Indemnification

- (a) The Borrower hereby agrees to indemnify each Credit Agreement Senior Secured Party and each Related Party of any of the foregoing Persons (each such Person being called a "**Credit Agreement Indemnitee**") against, and hold each Credit Agreement Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including all reasonable fees, costs and expenses of counsel or consultants for any Credit Agreement Indemnitee), incurred by any Credit Agreement Indemnitee or asserted against any Credit Agreement Indemnitee by any Person arising out of, in connection with, or as a result of:

- (i) the execution or delivery of this Agreement, any other Credit Agreement Transaction Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or the administration (other than expenses that do not constitute out-of-pocket expenses) or enforcement thereof;
- (ii) any Senior Loan or the use or proposed use of the proceeds therefrom;
- (iii) any actual or alleged presence, Release or threatened Release of Hazardous Materials on, from or related to the Project that could reasonably result in an Environmental Claim related in any way to the Project, the Rio Grande Facility, the Land or any property owned or operated by the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity, or any Environmental Affiliate or any liability pursuant to an Environmental Law related in any way to the Project, the Rio Grande Facility, the Land, the Borrower, the Administrator, the Coordinator, the Operator or any RG Facility Entity;
- (iv) any actual or prospective claim (including Environmental Claims), litigation, investigation or proceeding relating to any of the foregoing, whether based on common law, contract, tort or any other theory, whether brought by the Borrower or any of the Borrower's members, managers or creditors or by any other Person, and regardless of whether any Credit Agreement Indemnitee is a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Financing Documents is consummated, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Credit Agreement Indemnitee; or
- (v) any claim, demand or liability for broker's or finder's or placement fees or similar commissions, whether or not payable by the Borrower, alleged to have been incurred in connection with such transactions, other than any broker's or finder's fees payable to Persons engaged by any Credit Agreement Senior Secured Party, or any Affiliates or Related Parties of any of the foregoing;

provided, that such indemnity shall not, as to any Credit Agreement Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a final and Non-Appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Credit Agreement Indemnitee, or in the case of any Credit Agreement Indemnitee other than the Administrative Agent, breach by such Credit Agreement Indemnitee of any provisions of any Financing Document to which it is a party.

- (b) To the extent that the Borrower for any reason fails to pay any amount required under Section 12.6 or Section 12.8(a) above to be paid by it to any of the Administrative Agent or any Related Party of any of the foregoing, each Senior Lender severally agrees to pay to the Administrative Agent, or such Related Party,

as the case may be, such Senior Lender's ratable share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, based on the aggregate of such Senior Lender's Senior Loan Commitments to the aggregate of all Senior Loan Commitments; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, in each case in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent, in each case in its capacity as such. The obligations of the Senior Lenders under this Section 12.8(b) are subject to the provisions of Section 2.5. The obligations of the Senior Lenders to make payments pursuant to this Section 12.8(b) are several and not joint and shall survive the payment in full of the Obligations and the termination of this Agreement. The failure of any Senior Lender to make payments on any date required hereunder shall not relieve any other Senior Lender of its corresponding obligation to do so on such date, and no Senior Lender shall be responsible for the failure of any other Senior Lender to do so.

- (c) Without duplication of Section 8.10(b) (*Indemnification by Borrower*) of the Common Terms Agreement or any other indemnification provision in any Financing Document providing for indemnification by any Senior Secured Party in favor of the P1 Collateral Agent, the P1 Intercreditor Agent or any Related Party of any of the foregoing, to the extent that the Borrower for any reason fails to pay any amount required under Section 8.7 (*Costs and Expenses*) or Section 8.10(a) (*Indemnification by Borrower*) of the Common Terms Agreement or any analogous costs and expenses or indemnity provisions of any Financing Document to be paid by it to any of the P1 Intercreditor Agent, the P1 Collateral Agent or any Related Party of any of the foregoing, each Senior Lender severally agrees to pay to the P1 Intercreditor Agent, the P1 Collateral Agent or such Related Party, as the case may be, the ratable share of such unpaid amount (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), based on the aggregate of such Senior Lender's Senior Loan Commitments to the aggregate of all Senior Secured Debt Commitments; provided, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the P1 Intercreditor Agent, the P1 Collateral Agent or the applicable Related Party, in its capacity as such. The obligations of the Senior Lenders to make payments pursuant to this Section 12.8(c) are several and not joint and shall survive the payment in full of the Obligations and the termination of this Agreement. The failure of any Senior Lender to make payments on any date required hereunder shall not relieve any other Senior Lender of its corresponding obligation to do so on such date, and no Senior Lender shall be responsible for the failure of any other Senior Lender to do so.
- (d) All amounts due under this Section 12.8 shall be payable promptly after demand therefor.
- (e) The Borrower agrees that, without the Credit Agreement Indemnitee's prior written consent, it will not settle, compromise or consent to the entry of any judgment in any pending or threatened (in writing) claim, action or proceeding in respect of which indemnification could be sought by or on behalf of such Credit Agreement Indemnitee under this Section 12.8 (whether or not any Credit

Agreement Indemnitee is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of such Credit Agreement Indemnitee from all liability arising out of such claim, action or proceeding. In the event that a Credit Agreement Indemnitee is requested or required to appear as a witness in any action brought by or on behalf of or against the Borrower or any Affiliate thereof in which such Credit Agreement Indemnitee is not named as a defendant, the Borrower agrees to reimburse such Credit Agreement Indemnitee for all reasonable expenses incurred by it in connection with such Credit Agreement Indemnitee appearing and preparing to appear as such a witness, including the reasonable and documented fees and disbursements of its legal counsel. In the case of any claim brought against a Credit Agreement Indemnitee for which the Borrower may be responsible under this Section 12.8, the Administrative Agent, the P1 Collateral Agent, and the Senior Lenders agree (at the expense of the Borrower) to execute such instruments and documents and cooperate as reasonably requested by the Borrower in connection with the Borrower's defense, settlement or compromise of such claim, action or proceeding.

- (f) The P1 Intercreditor Agent and the Related Parties of any of the Administrative Agent, the P1 Collateral Agent, and the P1 Intercreditor Agent are express third party beneficiaries of this Section 12.8.
- (g) This Section 12.8 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

12.9. Interest Rate Limitation

Notwithstanding anything to the contrary contained in any Financing Document, the interest paid or agreed to be paid under the Financing Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Government Rule (the "**Maximum Rate**"). If the Administrative Agent or any Senior Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of such Senior Lender's Senior Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or any Senior Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Government Rule, (a) characterize any payment that is not principal as an expense, fee or premium, rather than interest, (b) exclude prepayments and the effects thereof, and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

12.10. No Waiver; Cumulative Remedies

No failure by any Credit Agreement Senior Secured Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Financing Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Financing Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

12.11. Notices and Other Communications

- (a) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or sent by email to the address(es), facsimile number or email address specified for the Borrower, the Administrative Agent, the P1 Collateral Agent, or the Senior Lenders, as applicable, on Schedule 12.11.
- (b) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; and notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, they shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications shall be effective as provided in Schedule 12.11.
- (c) Unless otherwise prescribed, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided, that if such notice or other communication is not received during the normal business hours of the recipient, such notice or communication shall be deemed to have been received at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in Schedule 12.11 of notification that such notice or communication is available and identifying the website address therefor. Notwithstanding the above, all notices delivered by the Borrower to the Administrative Agent through electronic communications shall be followed by the delivery of a hard copy.
- (d) Each of the Borrower, the Administrative Agent and the P1 Collateral Agent may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each Senior Lender may change its address, facsimile, email address or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and the P1 Collateral Agent.
- (e) The Administrative Agent, the P1 Collateral Agent, and the Senior Lenders shall be entitled to rely and act upon any written notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the P1 Collateral Agent, the Senior Lenders, and the Related Parties of each of them for all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent, the P1 Collateral Agent, the

Senior Lenders by the Borrower may be recorded by the Administrative Agent the P1 Collateral Agent, the Senior Lenders, as applicable, and each of the parties hereto hereby consents to such recording.

- (f) Notwithstanding the above, nothing herein shall prejudice the right of the Administrative Agent, the P1 Collateral Agent, any of the Senior Lenders to give any notice or other communication pursuant to any Financing Document in any other manner specified in such Financing Document.
- (g) the Borrower hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Financing Documents, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (i) relates to any Senior Loan Borrowing, (ii) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (iii) provides notice of any Default or Event of Default, or (iv) is required to be delivered to satisfy any condition precedent to any Senior Loan Borrowing (all such non-excluded communications being referred to herein collectively as “**Communications**”), by transmitting the Communications in an electronic/soft medium in a format acceptable to the Administrative Agent at the email addresses specified in Schedule 12.11. In addition, the Borrower agrees to continue to provide the Communications to the Administrative Agent in the manner specified in the Financing Documents but only to the extent requested by the Administrative Agent.
- (h) the Borrower further agrees that the Administrative Agent may make the Communications available to the Senior Lenders by posting the Communications on an internet website that may, from time to time, be notified to the Senior Lenders or a substantially similar electronic transmission system (the “**Platform**”). The costs and expenses incurred by the Administrative Agent in creating and maintaining the Platform shall be paid by Borrower in accordance with Section 12.6.
- (i) THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE”. THE ADMINISTRATIVE AGENT DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY AFFILIATE THEREOF OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, “**AGENT PARTIES**”) HAVE ANY LIABILITY TO THE BORROWER, ANY SENIOR LENDER, OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR

CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR ANY AGENT PARTY'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY AGENT PARTY IS FOUND IN A FINAL NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH AGENT PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

12.12. Patriot Act Notice

Each of the Administrative Agent, the P1 Collateral Agent, and the Senior Lenders hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Administrative Agent, the P1 Collateral Agent or such Senior Lender, as applicable, to identify the Borrower in accordance with the Patriot Act.

12.13. Payments Set Aside

To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the P1 Collateral Agent, any Senior Lender, or the Administrative Agent, the P1 Collateral Agent, or any Senior Lender (as the case may be) exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the P1 Collateral Agent or such Senior Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any bankruptcy or insolvency proceeding or otherwise, then (a) to the extent of such recovery, the Obligation or part thereof originally intended to be satisfied by such payment shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Senior Lender severally agrees to pay to the Administrative Agent or the P1 Collateral Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent or the P1 Collateral Agent, as the case may be, *plus* interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Senior Lenders under this Section 12.13 shall survive the payment in full of the Obligations and the termination of this Agreement.

12.14. Right of Setoff

Each of the Senior Lenders and each of their respective Affiliates is hereby authorized at any time and from time to time during the continuance of an Event of Default, to the fullest extent permitted by applicable Government Rule, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Senior Lender, or any such Affiliate to or for the credit or the account of the Borrower against any and all of the Obligations of the Borrower now or hereafter existing under this Agreement or any other Financing Document to such Senior Lender, irrespective of whether or not such Senior Lender shall have made any demand under this Agreement or any other Financing Document and although such obligations of the Borrower may be

contingent or unmatured or are owed to a branch or office of such Senior Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each of the Senior Lenders and their respective Affiliates under this Section 12.14 are in addition to other rights and remedies (including other rights of setoff) that such Senior Lender or their respective Affiliates may have. Each of the Senior Lenders agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided, that the failure to give such notice shall not affect the validity of such setoff and application.

12.15. Severability

If any provision of this Agreement or any other Financing Document is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Financing Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

12.16. Survival

Notwithstanding anything in this Agreement to the contrary, Section 4.2, Section 11.6, Section 12.3, Section 12.6, Section 12.8, Section 12.11, Section 12.13, this Section 12.16, Section 12.18, and Section 12.20 shall survive any termination of this Agreement. In addition, each representation and warranty made hereunder and in any other Financing Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties shall be considered to have been relied upon by the Credit Agreement Senior Secured Parties regardless of any investigation made by any Credit Agreement Senior Secured Party or on their behalf and notwithstanding that the Credit Agreement Senior Secured Parties may have had notice or knowledge of any Default or Event of Default at the time of the Senior Loan Borrowing, and shall continue in full force and effect as of the date made or any date referred to herein as long as any Senior Loan or any other Obligation hereunder or under any other Financing Document shall remain unpaid or unsatisfied.

12.17. Treatment of Certain Information; Confidentiality

The Administrative Agent, the P1 Collateral Agent and each of the Senior Lenders agrees to maintain the confidentiality of the Credit Agreement Information, except that Credit Agreement Information may be disclosed (a) to its Affiliates (including branches) and to its and its Affiliates' respective shareholders, members, partners, directors, officers, employees, agents, advisors, auditors, service providers and representatives (provided, that the Persons to whom such disclosure is made will be informed prior to disclosure of the confidential nature of such Credit Agreement Information and instructed to keep such Credit Agreement Information confidential); (b) to the extent requested or required by any regulatory authority purporting to have jurisdiction over it or to any Federal Reserve Bank or central bank in connection with a pledge or assignment pursuant to Section 12.4(e); (c) to the extent required by applicable Government Rule or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement;

(e) in connection with the exercise of any remedies hereunder or under any other Financing Document or any suit, action or proceeding relating to this Agreement or any other Financing Document or the enforcement of rights hereunder or thereunder (including any actual or prospective purchaser of Collateral); (f) subject to an agreement containing provisions substantially the same as those of this Section 12.17, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (or such assignee or Participant's or prospective assignee or Participant's professional advisor), (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of the Borrower, or (iii) any Person (and any of its officers, directors, employees, agents or advisors) that may enter into or support, directly or indirectly, or that may be considering entering into or supporting, directly or indirectly, either (A) contractual arrangements with the Administrative Agent, the P1 Collateral Agent, such Senior Lender, or any Affiliates thereof, pursuant to which all or any portion of the risks, rights, benefits or obligations under or with respect to any Senior Loan or Financing Document is transferred to such Person or (B) an actual or proposed securitization or collateralization of, or similar transaction relating to, all or a part of any amounts payable to or for the benefit of any Senior Lender under any Financing Document (including any rating agency); (g) with the consent of the Borrower (which consent shall not unreasonably be withheld, conditioned or delayed); (h) to any state, federal or foreign authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating the Administrative Agent, the P1 Collateral Agent, any Senior Lender or any of their respective Affiliates; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Credit Agreement Information relating to the Borrower received by it from any Senior Lender, the Administrative Agent or the P1 Collateral Agent, as applicable); (j) to any party providing (and any brokers arranging) any Credit Agreement Senior Secured Party insurance or reinsurance or other direct or indirect credit protection (including credit default swaps) with respect to its Senior Loans; (k) to (x) the CUSIP Service Bureau, Clearpar or Loanserv or any similar agency in connection with the issuance and monitoring of CUSIP numbers, Private Placement Numbers ("PPNs") or any other similar numbers with respect to the Senior Loans (it being understood and agreed that any Lender may apply for the issuance of one or more CUSIP numbers, PPNs or any other similar numbers with respect to any of the Senior Loans without the consent of the Loan Parties); or (l) in the case of any Senior Lender that is a Blackstone Entity only, the disclosure of the existence of this Agreement and the Senior Loans hereunder, its participation therein, and a summary of the terms hereof in any marketing publication and the Borrower's logo may be used in connection with such publication. In addition, the Administrative Agent, the P1 Collateral Agent or any Senior Lender may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, the P1 Collateral Agent and the Senior Lenders in connection with the numbering, administration, settlement and management of this Agreement, the other Financing Documents, the Senior Loan Commitments, and the Senior Loan Borrowings. For the purposes of this Section 12.17, "**Credit Agreement Information**" means written information that is furnished by or on behalf of the Borrower, the Pledgor, the Equity Owners or any of their Affiliates to the Administrative Agent, the P1 Collateral Agent or any Senior Lender pursuant to or in connection with any Financing Document, relating to the assets and business of the Borrower, the Pledgor, the Equity Owners, the RG Facility

Entities or any of their Affiliates, but does not include any such information that (x) is or becomes generally available to the public other than as a result of a breach by the Administrative Agent, the P1 Collateral Agent, such Senior Lender of its obligations hereunder, (y) is or becomes available to the Administrative Agent, the P1 Collateral Agent or such Senior Lender from a source other than the Borrower, the Pledgor, the Equity Owners or any of their Affiliates, as applicable, that is not, to the knowledge of the Administrative Agent, the P1 Collateral Agent or such Senior Lender acting in violation of a confidentiality obligation with the Borrower, the Pledgor, the Equity Owners or any of their Affiliates, as applicable, or (z) is independently compiled by the Administrative Agent, the P1 Collateral Agent or such Senior Lender as evidenced by their records, without the use of the Credit Agreement Information. Any Person required to maintain the confidentiality of Credit Agreement Information as provided in this Section 12.17 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Credit Agreement Information as such Person would accord to its own confidential information.

12.18. Waiver of Consequential Damages, Etc.

Except with respect to any indemnification obligations of the Borrower under Section 11.6 and Section 12.8 or any other indemnification provisions of the Borrower under any other Financing Document, to the fullest extent permitted by applicable Government Rule, no Party hereto shall assert, and each Party hereto hereby waives, any claim against any other Party hereto or their Related Parties, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Financing Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Senior Loan or the use of the proceeds thereof. No Party hereto or its Related Parties shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Financing Documents or the transactions contemplated hereby or thereby.

12.19. Waiver of Litigation Payments

To the extent that any Party hereto may, in any action, suit or proceeding brought in any of the courts referred to in Section 12.3(b) or elsewhere arising out of or in connection with this Agreement or any other Financing Document to which it is a party, be entitled to the benefit of any provision of law requiring any other Party hereto in such action, suit or proceeding to post security for the costs of such Person or to post a bond or to take similar action, each such Person hereby irrevocably waives such benefit, in each case to the fullest extent now or in the future permitted under the laws of the State of New York or, as the case may be, the jurisdiction in which such court is located.

12.20. Reinstatement

This Agreement and the obligations of the Borrower hereunder shall automatically be reinstated if and to the extent that for any reason any payment made pursuant to this Agreement is rescinded or must otherwise be restored or returned, whether as a result of any proceedings in bankruptcy or reorganization or otherwise with respect to the

Borrower or any other Person or as a result of any settlement or compromise with any Person (including the Borrower) in respect of such payment, and the Borrower shall pay the Credit Agreement Senior Secured Parties on demand all of their reasonable costs and expenses (including reasonable fees, expenses and disbursements of counsel) incurred by such parties in connection with such rescission or restoration.

12.21. No Recourse

The obligations of the Borrower under this Agreement and each other Credit Agreement Transaction Document to which it is a party, and any certificate, notice, instrument or document delivered pursuant hereto or thereto, are obligations solely of the Borrower and do not constitute a debt or obligation of (and no recourse shall be made with respect to) the Non-Recourse Parties, except (a) as hereinafter set forth in this Section 12.21, or (b) as expressly provided in any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. No action under or in connection with this Agreement or any other Financing Documents to which the Borrower is a party shall be brought against any Non-Recourse Party, and no judgment for any deficiency upon the obligations hereunder or thereunder shall be obtainable by any Senior Secured Party against any Non-Recourse Party, except as hereinafter expressly set forth in this Section 12.21 or as expressly provided in any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. Notwithstanding the foregoing, it is expressly understood and agreed that nothing contained in this Section 12.21 shall in any manner or way (i) restrict the remedies available to the P1 Intercreditor Agent, the P1 Collateral Agent, any Senior Secured Debt Holder Representative or any other Senior Secured Party to realize upon the Collateral or under any Credit Agreement Transaction Document, or constitute or be deemed to be a release of the obligations secured by (or impair the enforceability of) the Liens and the security interests and possessory rights created by or arising from any Financing Document, or (ii) release, or be deemed to release, any Non-Recourse Party from liability for its own willful misrepresentation, fraudulent actions, gross negligence or willful misconduct or from any of its obligations or liabilities under any Credit Agreement Transaction Document to which such Non-Recourse Party is a party. The limitations on recourse set forth in this Section 12.21 shall survive the Discharge Date.

12.22. P1 Intercreditor Agreement

Any actions, consents, approvals, authorizations or discretion taken, given, made or exercised, or not taken, given, made or exercised by the Administrative Agent, acting as the Senior Secured Debt Holder Representative on behalf of the Senior Lenders in accordance with the Collateral and Intercreditor Agreement, shall be binding on each Senior Lender.

12.23. Termination

This Agreement shall terminate and shall have no force and effect (except with respect to the provisions that expressly survive termination of this Agreement) if all Obligations have been indefeasibly paid in full and all Senior Loan Commitments have been terminated and the Administrative Agent shall have given the notice required by Section 2.9(a) (*Payment in Full of Senior Secured Debt*) of the Common Terms Agreement.

12.24. Consultants

Notwithstanding anything to the contrary in Section 8.6 (*Consultants*) of the Common Terms Agreement, the Borrower shall appoint as any replacement Consultant prior to the Credit Agreement Discharge Date the Person designated by the Majority Senior Lenders (after consultation with the Borrower if no Event of Default exists).

12.25. No Fiduciary Duty

The Borrower acknowledges and agrees that (a) no fiduciary, advisory, or agency relationship between the Borrower and any Credit Agreement Senior Secured Party or any of their Affiliates is intended to be or has been created in respect of any of the transactions contemplated by this Agreement or any Financing Document, irrespective of whether any Credit Agreement Senior Secured Parties or their Affiliates have advised or is advising the Borrower on other matters, (b) the Credit Agreement Senior Secured Parties and their Affiliates, on the one hand, and the Borrower, on the other hand, have an arm's-length business relationship that does not directly or indirectly give rise to, nor does the Borrower rely on, any fiduciary duty on the part of any Credit Agreement Senior Secured Party or any of their Affiliates, and (c) the Borrower waives, to the fullest extent permitted by law, any claims that the Borrower may have against any Credit Agreement Senior Secured Party or any of its Affiliates for breach of fiduciary duty or alleged breach of fiduciary duty and agree that the Credit Agreement Senior Secured Parties and their respective Affiliates shall have no liability (whether direct or indirect) to the Borrower in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Borrower, including the Borrower's equity holders, employees, or other creditors.

12.26. Acknowledgement and Consent to Bail-In of Affected Financial Institutions

Notwithstanding anything to the contrary in any Financing Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Financing Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder that may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing Document; or

- (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

12.27. Cashless Settlement

Notwithstanding anything to the contrary contained in this Agreement, any Senior Lender may exchange, continue or rollover all or a portion of its Senior Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent and such Senior Lender.

12.28. Restricted Lenders

Notwithstanding anything to the contrary in Section 5.22 or Section 7.13 of this Agreement, in relation to each Senior Lender that is incorporated in a non-US jurisdiction or that otherwise notifies the Administrative Agent to this effect (each a “**Restricted Lender**”), the representations and undertakings in the provisions of such Sections shall only apply for the benefit of such Restricted Lender and shall only be given by the Borrower to such Restricted Lender to the extent that the sanctions provisions would not result in any violation of, conflict with or liability under (a) EU Regulation (EC) 2271/96, (b) section 7 of the foreign trade rules (AWV) (Außenwirtschaftsverordnung) (in connection with section 4 paragraph 1 no. 3 and Section 19 paragraph 3 no. 1(a) foreign trade law (AWG) (Außenwirtschaftsgesetz)), or (c) a similar anti-boycott statute or other applicable Government Rule as in effect in that Restricted Lender’s home jurisdiction.

12.29. Disclosure in Connection with Equator Principles

The Administrative Agent may disclose to the Equator Principles Association (or any successor thereof) the following information in connection with the Project: Project name; Closing Date; sector; and host country.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers as of the day and year first above written.

RIO GRANDE LNG, LLC,
as the Borrower

By:____
Name: Brent Wahl
Title: Chief Financial Officer

[Signature Page to Credit Agreement]

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as the Administrative Agent

By:____
Name:
Title:

[Signature Page to Credit Agreement]

MIZUHO BANK (USA),
as the P1 Collateral Agent

By:____
Name:
Title:

[Signature Page to Credit Agreement]

ALLIANZ LIFE INSURANCE COMPANY OF NORTH AMERICA,

as Senior Lender

by: Blackstone ISG-I Advisors L.L.C., as Investment Advisor

By: _____

Name: Robert Young

Title: Managing Director and General Counsel

[Signature Page to Credit Agreement]

EVERLAKE LIFE INSURANCE COMPANY,

as Senior Lender

By: Blackstone Alternative Credit Advisors LP, pursuant to powers of attorney now
and hereafter granted to it

By:___

Name: Marisa Beeney

Title: Authorized Signatory

[Signature Page to Credit Agreement]

FIDELITY & GUARANTY LIFE INSURANCE COMPANY,
as Senior Lender

By: Blackstone Alternative Credit Advisors LP, pursuant to powers of attorney now
and hereafter granted to it

By:____
Name: Marisa Beeney
Title: Authorized Signatory

[Signature Page to Credit Agreement]

MIDLAND NATIONAL LIFE INSURANCE COMPANY,
as Senior Lender

By: Sammons Financial Group Asset Management, LLC, pursuant to powers of attorney now and hereafter granted to it

By: Blackstone Alternative Credit Advisors LP, pursuant to powers of attorney now and hereafter granted to it

By:____
Name: Robert Camacho
Title: Authorized Signatory

[Signature Page to Credit Agreement]

NORTH AMERICAN COMPANY FOR LIFE AND HEALTH INSURANCE,
as Senior Lender

By: Sammons Financial Group Asset Management, LLC, pursuant to powers of attorney now and hereafter granted to it

By: Blackstone Alternative Credit Advisors LP, pursuant to powers of attorney now and hereafter granted to it

By:____
Name: Robert Camacho
Title: Authorized Signatory

[Signature Page to Credit Agreement]

PACIFIC LIFE INSURANCE COMPANY,
as Senior Lender

By:____
Name:
Title:

[Signature Page to Credit Agreement]

PACIFIC LIFE & ANNUITY COMPANY,
as Senior Lender

By:____
Name:
Title:

[Signature Page to Credit Agreement]

SYMETRA LIFE INSURANCE COMPANY,
as Senior Lender

by: Resolution Re Ltd, as investment manager

by: Blackstone ISG-I Advisors L.L.C., as Investment Advisor

By: _____

Name: Robert Young

Title: Managing Director and General Counsel

[Signature Page to Credit Agreement]

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY,
as Senior Lender

By: Blackstone Asset Based Finance Advisors LP, pursuant to powers of attorney
now and hereafter granted to it

By:____
Name: Robert Camacho
Title: Authorized Signatory

[Signature Page to Credit Agreement]

Appendix I
DEFINITIONS

"Acceptable Distribution Guarantor" means a Person that is rated by at least one of S&P, Fitch, or Moody's and at least one such rating is equal to or better than "A-" by S&P or Fitch or "A3" by Moody's.

"ACQ" has the meaning assigned to such term in the applicable Designated Offtake Agreement.

"Administrative Agent" means Wilmington Trust, National Association, not in its individual capacity, but solely as Administrative Agent for the Senior Loans hereunder, and each other Person that may, from time to time, be appointed as successor Administrative Agent pursuant to Section 11.7.

"Administrative Agent Fee Letter" means the Fee Letter dated as of the date hereof, between the Borrower and the Administrative Agent.

"Administrative Decisions" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliated Lender" means, at any time, any Senior Lender that is an Equity Owner or any Affiliate of an Equity Owner (other than the Pledgor, the Borrower, any RG Facility Entity, and any Debt Fund Affiliate, or any natural Person) or a Non-Debt Fund Affiliate of an Equity Owner at such time.

"Affiliated Lender Assignment Agreement" has the meaning assigned to such term in Section 12.4(f)(ii)(A).

"Affiliated Lender Cap" has the meaning assigned to such term in Section 12.4(f)(ii)(C).

"Agent Parties" has the meaning assigned to such term in Section 12.11(i).

"Aggregate Funded Equity" has the meaning assigned to such term in the P1 Equity Contribution Agreement.

"Aggregate Senior Loan Commitment" means \$251,000,000, as the same may be reduced in accordance with Section 2.4.

"Agreement" has the meaning assigned to such term in the Preamble.

"Amortization Schedule" means the amortization schedule set forth in Schedule 3.1(a), as the same may be modified from time to time in accordance with Section 3.1(c) to reflect any prepayment made in accordance with the terms of this Agreement.

"Annual Capital Budget" has the meaning assigned to such term in the Definitions Agreement.

"Annual Capital Plan" has the meaning assigned to such term in the Definitions Agreement.

"Annual Facility Plan" has the meaning assigned to such term in the Definitions Agreement.

“Annual O&M Budget” has the meaning assigned to such term in the Definitions Agreement.

“Annual O&M Plan” has the meaning assigned to such term in the Definitions Agreement.

“Annual Operating Budget” has the meaning assigned to such term in the Definitions Agreement.

“Annual Operating Plan” has the meaning assigned to such term in the Definitions Agreement.

“Anti-Corruption Laws” means the U.S. Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§78m, 78dd-1 through 78dd-3 and 78ff, et seq., and all similar laws, rules, and regulations of any jurisdiction prohibiting bribery and corruption, including the U.K. Bribery Act, applicable to the Borrower or any of its subsidiaries at the relevant time.

“Anti-Terrorism and Money Laundering Laws” means any of the following (a) Section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (Title 12, Part 595 of the US Code of Federal Regulations), (b) the Terrorism Sanctions Regulations (Title 31 Part 595 of the US Code of Federal Regulations), (c) the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the US Code of Federal Regulations), (d) the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the US Code of Federal Regulations), (e) the USA Patriot Act of 2001 (Pub. L. No. 107-56), (f) the U.S. Money Laundering Control Act of 1986, as amended, (g) the Bank Secrecy Act, 31 U.S.C. sections 5301 et seq., (h) Laundering of Monetary Instruments, 18 U.S.C. section 1956, (i) Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 18 U.S.C. section 1957, (j) the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations (Title 31 Part 103 of the US Code of Federal Regulations), (k) any other similar federal Government Rule having the force of law and relating to money laundering, terrorist acts or acts of war, and (l) any regulations promulgated under any of the foregoing.

“Approved Owners” means (a) Global Infrastructure Management, LLC, (b) Devonshire Investment Pte. Ltd., (c) MIC TI Holding Company 2 RSC Limited, (d) Global LNG North America Corp., (e) any Qualified Mezzanine Entity, and (f) to the extent satisfying the KYC Requirements, any other Person approved by the Majority Senior Lenders.

“Asset Sale” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Asset Sale Proceeds” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“Bail-In Legislation” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time that is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank Fee Letters" means each of:

- (a) the Administrative Agent Fee Letter; and
- (b) the Structuring Fee Letter.

"Bank Financing Documents" means (a) this Agreement, (b) the Bank Fee Letters, (c) the other financing and security agreements, documents and instruments delivered in connection with this Agreement, including each of the Common Terms Accession Agreement and the CIA Accession Confirmation, and (d) each other document designated as a Bank Financing Document by the Borrower and the Administrative Agent.

"Bankruptcy Code" means 11 U.S.C. § 101 et. seq.

"Base Committed Quantity" means 844.880 million MMBtu (equivalent to approximately 16.19 MTPA), being the aggregate ACQ under the Initial Offtake Agreements; provided, that (a) following the full payment of the required amount of Senior Secured Debt (taking into account any amounts declined by the Senior Lenders or other applicable Senior Secured Debt Holders) upon any Credit Agreement LNG Sales Mandatory Prepayment Event in accordance with Section 7.4, the Base Committed Quantity will be equal to the aggregate ACQ under the Designated Offtake Agreements used to calculate the amount of Senior Secured Debt that the Borrower is not required to repay upon a Credit Agreement LNG Sales Mandatory Prepayment Event under Section 7.4, (b) to the extent that any other Offtake Agreement becomes a Designated Offtake Agreement or an existing Designated Offtake Agreement is amended to adjust the quantity of LNG contracted to be sold thereunder, the Base Committed Quantity will be equal to the aggregate ACQ under such Designated Offtake Agreements as at such time, and (c) following prepayment of Senior Secured Debt (other than any prepayment referenced in the foregoing clause (a)), the Base Committed Quantity will be reduced to the minimum ACQ under the Designated Offtake Agreements in effect at such time that is required to achieve a Credit Agreement Projected DSCR of at least 1.40:1.00 (or, at any time after any prepayment referenced in clause (a), 1.20:1.00) based on the Base Case Forecast updated only to reflect such prepayment.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "beneficially owns," "beneficially owned" and "beneficial ownership" have a corresponding meaning.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" refers to 31 C.F.R. § 1010.230.

"Blackstone Entity" means Blackstone Alternative Credit Advisors LP, its Affiliates and funds, accounts and clients managed, advised or sub-advised by any of them.

"Borrower" has the meaning assigned to such term in the Preamble.

"Borrowing Notice" means each request for a Senior Loan Borrowing of Senior Loans substantially in the form of Exhibit B and delivered in accordance with Section 2.2.

“Canada Blocked Person” means (a) a “terrorist group” as defined for the purposes of Part II.1 of the Criminal Code (Canada), as amended or (b) a Person identified in or pursuant to (w) Part II.1 of the Criminal Code (Canada), as amended or (i) the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, as amended or (ii) the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), as amended or (iii) regulations or orders promulgated pursuant to the Special Economic Measures Act (Canada), as amended, the United Nations Act (Canada), as amended, or the Freezing Assets of Corrupt Foreign Officials Act (Canada), as amended, in any case pursuant to this clause (b) as a Person in respect of whose property or benefit a Senior Lender would be prohibited from entering into or facilitating a related financial transaction.

“Cash Equity Financing” means the commitment of the Pledgor, pursuant to the P1 Equity Contribution Agreement, to directly or indirectly make cash contributions to the Borrower up to the Remaining Equity Amount (as defined in the P1 Equity Contribution Agreement).

“CD Indenture Rating Reaffirmation” means a “Rating Reaffirmation” as defined in the CD Senior Notes Indenture.

“CFCo Deed of Trust” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Change in Law” means (a) the adoption or introduction of any law, rule, directive, guideline, decision or regulation after the Closing Date, (b) any change in law, rule, directive, guideline, decision or regulation or in the interpretation or application thereof by any Government Authority charged with its interpretation or administration after the Closing Date, or (c) compliance by any Senior Lender, by any lending office of such Senior Lender, or by such Senior Lender’s holding company, if any, with any written request, guideline, decision or directive (whether or not having the force of law but if not having the force of law, then being one with which the relevant party would customarily comply) of any Government Authority charged with its interpretation or administration made or issued after the Closing Date; provided, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law” regardless of the date enacted, adopted, issued or implemented.

“Change of Control” means:

- (a) prior to the Project Completion Date, the Sponsor and the Approved Owners collectively fail to directly or indirectly hold legally and beneficially more than 50% of the total voting and economic Equity Interests of the Borrower and voting Equity Interests of the Pledgor;
- (b) prior to the Project Completion Date, the Sponsor fails to directly or indirectly hold legally and beneficially 15% or more of the voting and economic Equity Interests of the Borrower;
- (c) on and after the Project Completion Date, the Sponsor, any Approved Owners, any Qualified Public Company, any Qualified Investment Entity, any Qualified Offtaker Investor, and any Qualified Energy Company collectively fail to directly

or indirectly hold legally and beneficially more than 50% of the total voting and economic Equity Interests of the Borrower; or

- (d) at any time, the Pledgor fails to hold legally and beneficially 100% of the total voting and economic Equity Interests in the Borrower;

provided, that in clauses (a), (b), and (c), any Equity Interests of the Pledgor that are held legally and beneficially through an entity of which the Sponsor, any Approved Owners, any Qualified Investment Entity, any Qualified Offtaker Investor, or any Qualified Energy Company, as applicable, is the general partner and has the power, whether by contract, equity ownership, or otherwise, to direct or cause the direction of the policies and management of such entity, shall be included when calculating such percentage; provided, further, that for purposes of clauses (a) and (c) and the definition of Approved Owners, (x) "Global Infrastructure Management, LLC" means Global Infrastructure Management, LLC, its Related Entities and its Affiliates, where (i) "Affiliates" means (A) any Person that is managed or advised by Global Infrastructure Management, LLC or its Related Entities or (B) any trustee, custodian, or nominee of any fund managed or advised by Global Infrastructure Management, LLC or its Related Entities and (ii) "advised" means being in receipt of an implementing advice in relation to the management of investments of that Person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant Person, (y) "Devonshire Investment Pte. Ltd." means Devonshire Investment Pte. Ltd., its Related Entities and its Affiliates, where "Affiliates" means any Person that is, or is managed or advised by, GIC Private Limited or its Related Entities and (z) "MIC TI Holding Company 2 RSC Limited" means MIC TI Holding Company 2 RSC Limited, its Related Entities and its Affiliates, where "Affiliates" means the government of the Emirate of Abu Dhabi and any Person it Controls, whether directly or indirectly.

"Change of Control Triggering Event" means the occurrence of a Change of Control; provided, that, a Change of Control shall not be deemed to have occurred if (a) the Borrower shall have received written confirmation that a Rating Reaffirmation shall have occurred and (b) so long as the SSD Discharge Date with respect to the Senior Secured Debt under the CD Senior Notes Indenture has not occurred, a CD Indenture Rating Reaffirmation shall have occurred.

"Closing Date" means the date on which the conditions precedent in Section 6.1 have been satisfied or waived in accordance with this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Collateral Proceeds" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Common Deed of Trust" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Common Terms Agreement" means that certain Common Terms Agreement, dated as of July 12, 2023, by and among the Borrower, each Senior Secured Debt Holder Representative that is a party thereto, and the P1 Intercreditor Agent.

"Communications" has the meaning assigned to such term in Section 12.11(g).

"Consent Agreement" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Construction Budget and Schedule" means (a) a budget attached as Exhibit O-1 to the CD Credit Agreement setting forth, on a monthly basis, the timing and amount of all projected payments of P1 Project Costs through the date on which T1 Substantial Completion, T2 Substantial Completion, and T3 Substantial Completion shall have occurred and (b) a schedule attached as Exhibit O-2 of the CD Credit Agreement setting forth the proposed engineering, procurement, construction and testing milestone schedule for the Project's Development through the projected date on which Final Completion shall have occurred under each of the P1 EPC Contracts.

"Contracted Revenues" means, for any period, Cash Flow projected to be received by the Borrower during such period under Qualified Offtake Agreements calculated solely to reflect the price paid if no LNG is lifted under Qualified Offtake Agreements then in effect.

"Controlled Subsidiary" means, with respect to any specified Person, a corporation, partnership, joint venture, limited liability company or other Person of which a majority of the Equity Interests of such Person having ordinary voting power or authority for the election or appointment of directors, managers or other governing body (other than Equity Interests having such power or authority only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise Controlled, directly or indirectly through one or more intermediaries, or both, by such specified Person.

"Credit Agreement Discharge Date" means the date on which:

- (a) the P1 Collateral Agent, the Administrative Agent and the Senior Lenders shall have received payment in full in cash of all of the Obligations and all other amounts owing to the P1 Collateral Agent, the Administrative Agent, and the Senior Lenders under the Financing Documents (other than Obligations thereunder that by their terms survive and with respect to which no claim has been made by the applicable Credit Agreement Senior Secured Parties); and
- (b) the Senior Loan Commitments shall have terminated, expired or been reduced to zero Dollars.

"Credit Agreement Indemnitee" has the meaning assigned to such term in [Section 12.8\(a\)](#).

"Credit Agreement Information" has the meaning assigned to such term in [Section 12.17](#).

"Credit Agreement LNG Sales Mandatory Prepayment Event" means any event triggering a mandatory prepayment pursuant to [Section 7.4](#).

"Credit Agreement Maturity Date" means September 30, 2047.

"Credit Agreement Projected CFADS" means, for any period, an amount equal to (a) the amount of Cash Flow from Contracted Revenues projected to be received by the Borrower during such period *minus* (b) all amounts projected to be paid during such period pursuant to Sections 3.3(c)(i) and 3.3(c)(ii) (*P1 Revenue Account*) of the P1 Accounts Agreement (other than any fee projected to be payable to any Senior Secured Party), which amounts under this [clause \(b\)](#) shall exclude any such amounts that (i) are related to the lifting of LNG or (ii) are P1 Project Costs, RCI EPC CAPEX, or RCI Owners' Costs, in each case, to the extent funded with Indebtedness or equity.

“Credit Agreement Projected DSCR” means, for the applicable period, the ratio of (a) Credit Agreement Projected CFADS to (b) Debt Service (other than (i) principal of Working Capital Debt and the principal amount of Senior Secured Debt payable on the Maturity Date thereof, (ii) commitment fees, front-end fees and up-front fees paid prior to the Project Completion Date or, if later, out of the proceeds of Senior Secured Debt, (iii) LC Costs, (iv) interest in respect of the Senior Secured Debt and Senior Secured Obligations under Senior Secured IR Hedge Agreements, in each case, paid prior to the Project Completion Date, (v) amounts payable under Senior Secured Hedge Agreements that are not in respect of interest rates, (vi) without duplication of amounts in clause (b)(v), P1 Hedge Termination Amounts under Senior Secured Hedge Agreements, and (vii) for purposes of satisfying the conditions set forth in Section 7.3, incremental carrying costs of such Senior Secured Debt and the costs associated with arranging, issuing, and incurring such Senior Secured Debt projected for such period).

“Credit Agreement Senior Secured Parties” means the Senior Lenders, the Administrative Agent, the P1 Collateral Agent, and each of their respective successors and permitted assigns, in each case in connection with this Agreement, and the Senior Loans.

“Credit Agreement Transaction Documents” means, collectively, the Financing Documents (as defined in this Agreement) and the Material Project Documents.

“Date Certain” means, the “Date Certain” as defined under the CD Credit Agreement, as of the date of this Agreement and without giving effect to how that term may be amended, waived, extended or otherwise modified from time to time, pursuant to the terms of the CD Credit Agreement notwithstanding any contrary provision in any Financing Document.

“DBRS” means DBRS, Inc., or if applicable, its successor.

“Debt Fund Affiliate” means any Affiliate of the Pledgor other than the Borrower or any RG Facility Entity that is, in each case, a *bona fide* debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course, is not organized for the purpose of making equity investments, and with respect to which (a) any such Debt Fund Affiliate has in place customary information barriers between it and the applicable Equity Owner and any Affiliate of the applicable Equity Owner that is not primarily engaged in the investing activities described above, (b) its managers have fiduciary duties to the investors thereof independent of and in addition to their duties to the applicable Equity Owner and any Affiliate of the applicable Equity Owner, and (c) the Equity Owners and investment vehicles managed or advised by any Equity Owner that are not engaged primarily in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course do not, either directly or indirectly, make investment decisions for such entity.

“Debt Repayment Triggering Event” means any event or condition that gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture, or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Borrower or its subsidiaries (other than the obligations to use the proceeds of any Senior Loans to repay or to otherwise terminate commitments as indicated in the Disclosure Documents) or would cause such Indebtedness to become due and payable before its stated maturity or before its regularly scheduled dates of payment.

“Debt to Equity Ratio” means, as of any date of determination, the ratio of (a) the aggregate principal amount of all Senior Secured Debt (other than the principal of Working Capital Debt)

at such time outstanding to (b) the sum of Aggregate Funded Equity and Voluntary Equity Contributions, in each case, made on or prior to such date.

"Debtor Relief Laws" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Default" means an event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would become an Event of Default.

"Default Rate" means an interest rate (before as well as after judgment) equal to the Interest Rate *plus 2.00% per annum*.

"Delivered" refers to quantities of LNG sold "cost, insurance and freight," "cost and freight," "delivered ex ship," "delivered at terminal," or otherwise where the Borrower is responsible for the transportation of LNG to a delivery point other than at the Rio Grande Facility under the terms of the relevant Offtake Agreement.

"Disclosure Documents" has the meaning assigned to such term in Section 5.2.

"Distribution Guaranty" means an unconditional guarantee, in form and substance satisfactory to the P1 Administrative Agent, for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders provided by an Acceptable Distribution Guarantor without recourse to any Loan Party in connection with Section 7.1(c).

"Distribution LC" an irrevocable, standby letter of credit issued by a Qualifying LC Issuer in connection with Section 7.1(c) that (a) includes an expiration date no earlier than 364 days following its issuance date, (b) allows the P1 Collateral Agent to make a drawdown of up to the full stated amount in the circumstances permitted hereunder, (c) is for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders, the CD Senior Lenders and the TCF Senior Lenders, and (d) is in form and substance reasonably satisfactory to the P1 Administrative Agent.

"DOE Export Authorization" means (a) the Order Granting Long-Term Multi-Contract Authorization to Export LNG to Free Trade Agreement Nations issued by DOE/FE in FE Docket No. 15-190-LNG in its Order No. 3869 on August 17, 2016, and (b) the Opinion and Order Granting Long-Term Multi-Contract Authorization to Export LNG to Non-Free Trade Agreement Nations issued by DOE/FE in FE Docket No. 15-190-LNG in its Order No. 4492 on February 10, 2020, as amended to extend the term in DOE/FE Order No. 4492-A issued on October 21, 2020.

"DOE/FE" means the U.S. Department of Energy, Office of Fossil Energy or, as subsequently renamed, Office of Fossil Energy and Carbon Management.

"DSR Credit Support" has the meaning assigned to such term in the P1 Accounts Agreement.

"DSRA Reserve Amount" has the meaning assigned to such term in the P1 Accounts Agreement.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country that is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country that is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member

Country that is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Environmental and Social Action Plan” means the Environmental and Social Action Plan attached to the report of the Environmental Advisor delivered pursuant to this Agreement, together with any updates thereto as may be made from time to time by the Borrower as required or permitted under the P1 Financing Documents.

“Environmental and Social Incident” means a significant and serious incident or accident as a result of the construction or operation of the Project that (a) under the Environmental Laws requires the Borrower to undertake emergency or immediate remedial action and (b) has the following impacts: (i) death, major health disability or material adverse health damage, (ii) material adverse and persistent damage to the environment, or (iii) material destruction of a site or object of cultural or religious significance.

“Environmental Laws” has the meaning assigned to such term in Section 5.14(a).

“Equator Principles” means the principles named “The Equator Principles EP4 – A financial industry benchmark for determining, assessing and managing environmental and social risk in projects” adopted by various financial institutions in the form dated July 2020 that became effective on October 1, 2020.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any corporation or trade or business which is a member of any group of organizations: (a) described in Section 414(b) or Section 414(c) of the Code of which the Borrower is a member; and (b) solely for purposes of potential liability under Section 302(b) of ERISA and Section 412(b) of the Code and the lien created under Section 303(k) of ERISA and Section 430(k) of the Code, described in Section 414(m) or Section 414(o) of the Code of which the Borrower is a member.

“ERISA Event” means:

- (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan, other than events for which the 30-day notice period has been waived by current regulation under PBGC Regulation Subsections .27, .28, .29 or .31;
- (b) the failure with respect to any Plan to meet the minimum funding requirements of Section 412 or Section 430 of the Code or Section 302 or Section 303 of ERISA, whether or not waived;
- (c) the filing pursuant to Section 412(c) of the Code or Section 303 of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan;

- (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan;
- (e) the filing of notice of intent to terminate a Plan or the treatment of a Plan amendment as a termination under Section 4041 of ERISA;
- (f) the institution of proceedings to terminate a Plan by PBGC or to appoint a trustee to administer any Plan;
- (g) the withdrawal by the Borrower or any of its ERISA Affiliates from a multiple employer plan (within the meaning of Section 4064 of ERISA) during a plan year in which it was a "substantial employer", as such term is defined under Section 4064 of ERISA, upon the termination of a Multiemployer Plan or the cessation of operations under a Plan pursuant to Section 4062(e) of ERISA;
- (h) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Multiemployer Plan;
- (i) the attainment of any Plan of "at risk" status within the meaning of Section 430 of the Code or Section 303 of ERISA;
- (j) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in critical, endangered or critical and declining status, within the meaning of the Code or Title IV of ERISA;
- (k) the failure of the Borrower or any ERISA Affiliate to pay when due any amount that has become liable to the PBGC, any Plan or trust established thereunder pursuant to Title IV of ERISA or the Code;
- (l) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 436(f) of the Code;
- (m) the Borrower or any of its Controlled Subsidiaries engages in a "prohibited transaction" within the meaning of Section 4975 of the Code or Section 406 of ERISA that is not otherwise exempt by statute, regulation or administrative pronouncement; or
- (n) the imposition of a lien under ERISA or the Code with respect to any Plan or Multiemployer Plan.

"Erroneous Payment" has the meaning assigned to such term in Section 11.11(a).

"Erroneous Payment Deficiency Assignment" has the meaning assigned to such term in Section 11.11(d).

"Erroneous Payment Impacted Class" has the meaning assigned to such term in Section 11.11(d).

"Erroneous Payment Return Deficiency" has the meaning assigned to such term in Section 11.11(d).

“Erroneous Payment Subrogation Rights” has the meaning assigned to such term in Section 11.11(f).

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Event of Default” means any of the events described in Article 9.

“Excluded Taxes” means, with respect to the Administrative Agent or any Senior Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower under any Financing Document, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Person being organized under the laws of, or having its principal office or, in the case of a Senior Lender, its lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Senior Lender, any U.S. federal withholding Tax that is imposed on amounts payable to or for the account of such Person with respect to an applicable interest in a Financing Document pursuant to a law in effect on the date on which (i) such Person acquires such interest in the Financing Document (other than pursuant to an assignment request by the Borrower under Section 4.1) or (ii) such Person changes its lending office, except in each case to the extent, pursuant to Section 4.2, amounts with respect to such Taxes were payable either to such Person’s assignor immediately before such Person became a Party hereto or to such Person immediately before it changed its lending office, (c) Taxes attributable to such Person’s failure to comply with Section 4.2(g) or Section 4.2(h) and (d) any withholding Tax imposed under FATCA.

“Export Authorization Remediation” has the meaning assigned to such term in Section 7.4(b)(i).

“Facility Independent Engineer” has the meaning assigned to such term in the Definitions Agreement.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Government Authorities and implementing such Sections of the Code.

“FATCA Deduction” means a deduction or withholding from a payment under a Financing Document required by FATCA.

“FATCA Exempt Party” means a Party that is entitled to receive payments free from any FATCA Deduction.

“Federal Funds Effective Rate” means, for any day, the greater of (a) the rate calculated by the Federal Reserve Bank of New York based on such day’s Federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the Federal funds effective rate and (b) 0%.

“Fees” means, collectively, each of the fees payable by the Borrower for the account of any Senior Lender or the Administrative Agent pursuant to Section 3.10.

“FERC Authorization” means the authorization to site, construct, and operate the P1 Train Facilities and the Common Facilities originally issued by FERC in its Order in Docket Nos. CP16-454 on November 22, 2019, with rehearing subsequently denied and later remanded by the Court of Appeals for the D.C. Circuit, and with those certain design modifications approved by FERC in 2020 and 2021, and the FERC Remand Order, as such FERC orders may be amended, supplemented, clarified, restated, reissued, or otherwise modified from time to time by FERC.

“FERC Remand Order” means the order issued by FERC, following the remand by the U.S. Court of Appeals for the D.C. Circuit of the prior FERC Authorization, in Docket Nos. CP16-454 on April 21, 2023.

“Final Completion” means, as the context may require, a “Final Completion” as defined in the T1/T2 EPC Contract, a “Final Completion” as defined in the T3 EPC Contract, or both.

“Financing Documents” means (a) each of the documents set forth in the definition of “P1 Financing Documents” in the Common Terms Agreement and (b) the Bank Financing Documents.

“Foreign Lender” means any Senior Lender that is not a U.S. Person.

“Funding Shortfall Debt” means Supplemental Debt that satisfies:

- (a) the conditions set forth in Section 2.6 (*Supplemental Debt*) of the Common Terms Agreement;
- (b) the conditions set forth in Section 7.3(d); and
- (c) the following conditions:
 - (i) the principal amount of such Funding Shortfall Debt does not exceed: (A) (1) if incurred prior to the Project Completion Date or the completion date of the Permitted Capital Improvement (as applicable), an amount equal to 75% of the aggregate amount of P1 Project Costs, or the costs of such Permitted Capital Improvement (as applicable) and (2) if incurred on or after the Project Completion Date or the completion date of the applicable Capital Improvement (as applicable), (x) in the case of Funding Shortfall Debt incurred to finance P1 Project Costs, an amount that, together with all funded or unfunded commitments under the CD Construction/Term Loans, the TCF Senior Loans, the Senior Loans, any Supplemental Debt incurred to fund such P1 Project Costs, any Replacement Debt incurred to replace such funded or unfunded commitments, and any other Funding Shortfall Debt to finance P1 Project Costs, does not exceed 75% of aggregate P1 Project Costs as at the Project Completion Date or (y) in the case of Funding Shortfall Debt incurred to finance Permitted Capital Improvements, an amount that, together with all Senior Secured Debt incurred to finance such Permitted Capital Improvement, does not exceed 75% of aggregate costs in respect of such Permitted Capital Improvement as at the completion of such Permitted Capital Improvement, *plus* (B) all premiums, fees, costs, expenses, and reserves (including any incremental increase in the DSRA Reserve Amounts resulting from the incurrence of such Funding Shortfall Debt) associated with arranging, issuing and incurring such Funding Shortfall Debt *plus* (C) 105% of the P1 IR Hedge Termination Amounts reasonably

projected as of such date of incurrence to be due and payable by the Borrower with respect to any portion of one or more Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;

- (ii) such Funding Shortfall Debt is incurred prior to the second anniversary of the Project Completion Date or the completion date of such Permitted Capital Improvement (as applicable); and
- (iii) simultaneously with the incurrence of any Funding Shortfall Debt, the Borrower shall use a portion of the proceeds of such Funding Shortfall Debt to fund any reserves (including any incremental increase in the DSRA Reserve Amounts) resulting from the incurrence of such Funding Shortfall Debt.

"Hazardous Substances" has the meaning assigned to such term in Section 5.14(b).

"Historical DSCR" has the meaning set forth in the Common Terms Agreement; provided, however, that for all purposes under this Agreement, "Historical DSCR" shall be deemed to exclude subclause (b)(vii) of the definition thereof in the Common Terms Agreement.

"HMT" means His Majesty's Treasury, the economic and finance ministry of the United Kingdom.

"incur" has the meaning assigned to such term in Section 7.3(a).

"Indemnified Taxes" means (a) Taxes imposed on or with respect to any payment made on account of any obligation of the Borrower under any Financing Document, other than Excluded Taxes, and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Initial Offtakers" means:

- (a) China Gas Hongda Energy Trading Co., Ltd.;
- (b) Engie S.A.;
- (c) ENN LNG (Singapore) Pte. Ltd.;
- (d) ExxonMobil Asia Pacific Pte. Ltd.;
- (e) Galp Trading S.A.;
- (f) Guangdong Energy Group Natural Gas Co., Ltd.;
- (g) Guangdong Energy Group Co., Ltd.;
- (h) Itochu Corporation;
- (i) Shell NA LNG LLC; and
- (j) TotalEnergies Gas & Power North America, Inc.

"Intellectual Property Rights" has the meaning assigned to such term in Section 5.13.

"Interest Payment Date" has the meaning assigned to such term in Section 3.2(a).

"Interest Rate" means 7.11%.

"Investment Company Act" has the meaning assigned to such term in Section 5.19.

"Investment Grade" means that such person is rated by at least one Recognized Credit Rating Agency and at least one such rating is equal to or better than "Baa3" by Moody's, "BBB-" by S&P, "BBB-" by Fitch, or a comparable credit rating that is a Recognized Credit Rating Agency.

"Kroll" means Kroll Bond Rating Agency, Inc., or if applicable, its successor.

"KYC Requirements" means the consistently applied "know your customer" requirements of the Senior Lenders under applicable "know your customer" and Anti-Terrorism and Money Laundering Laws, including the Patriot Act.

"Lender Assignment Agreement" means a Lender Assignment Agreement, substantially in the form of Exhibit C-1.

"Licenses" has the meaning assigned to such term in Section 5.11.

"Liquefaction Owner" means (a) the Borrower and (b) any other Person that (i) is permitted under the CFAA to construct and own the assets comprising a Train Facility, (ii) has entered into a construction advisor services agreement in respect of a Subsequent Train Facility, and (iii) has acceded to the RG Facility Agreements in accordance therewith.

"LNG Sales Mandatory Prepayment" means any prepayment of Senior Secured Debt in connection with an LNG Sales Mandatory Prepayment Event.

"LNG Sales Mandatory Prepayment Event" means any event triggering a mandatory prepayment or any requirement to make an offer to prepay (including any such requirement pursuant to Section 7.4) of Senior Secured Debt in connection with the termination of an Offtake Agreement or any Impairment of any related Governmental Approval.

"Loan Parties" means the Borrower and the Pledgor.

"Major Capital Improvements" means Capital Improvements for which the Borrower's allocated share of costs pursuant to the CFAA is reasonably expected to be equal to or greater than \$200,000,000.

"Majority Senior Lenders" means at any time, the Senior Lenders holding in excess of 50.00% of the sum of (a) the aggregate undisbursed Senior Loan Commitments *plus* (b) the then aggregate outstanding principal amount of the Senior Loans (excluding in each such case any Senior Lender that is a Loan Party, an Equity Owner, or an Affiliate or Controlled Subsidiary thereof or an Affiliated Lender, and each Senior Loan Commitment and any outstanding principal amount of any Senior Loan of any such Senior Lender).

"Make-Whole Amount" means the greater of:

- (a) (i) the sum of the present values of the remaining scheduled payments of principal and interest on the Senior Loan to be prepaid, discounted to the prepayment date (assuming the Senior Loans matured on the Par Call Date) on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury

Rate, plus fifty basis points/less (ii) interest accrued to, but excluding, the prepayment date; and

(b) 100% of the principal amount of the Senior Loan to be prepaid.

“Mandatory Prepayment Confirmation Deadline” has the meaning assigned to such term in Section 3.8(f).

“Mandatory Prepayment Date” has the meaning assigned to such term in Section 3.8(e).

“Mandatory Prepayment Event Notice” has the meaning assigned to such term in Section 3.8(d).

“Mandatory Prepayment Portion” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Material Project Party” means any party to a Material Project Document (other than the Borrower) and each guarantor or provider of security or credit support in respect thereof.

“Maximum Rate” has the meaning assigned to such term in Section 12.9.

“Mezzanine Financing Facility” means any financing facility entered into at any time by a Person that is a parent of the Pledgor in connection with the Project.

“Modification” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“MTPA” means million metric tonnes per annum.

“Multiemployer Plan” means a multiemployer plan defined as such in Section 3(37) of ERISA to which contributions have been made by the Borrower or any ERISA Affiliate in the past five years and which is covered by Title IV of ERISA.

“Necessary Senior Secured Debt Instrument” means any Senior Secured Debt Instrument providing for Indebtedness without which the Borrower could not reasonably expect to have sufficient funds (on the basis of all available funds, including Senior Secured Debt Commitments, cash on deposit in the P1 Construction Account or the Distribution Account, or other committed equity, and projected Contracted Revenues under the Designated Offtake Agreements) to achieve the Project Completion Date by the Date Certain.

“Non-Debt Fund Affiliate” means any Affiliate of an Equity Owner other than (a) the Pledgor, the Borrower, or any RG Facility Entity, (b) any Debt Fund Affiliates, and (c) any natural Person.

“Notional Amortization Period” means, beginning on the Project Completion Date, the notional twenty-year amortization period of the Senior Loans set forth in the Base Case Forecast.

“Obligations” means, collectively, (a) all Indebtedness, Senior Loans, advances, debts, liabilities (including any indemnification or other obligations that survive the termination of the Financing Documents (excluding any Senior Secured Debt Instrument other than this Agreement)), and all other obligations, howsoever arising (including Guarantee obligations), in each case, owed by the Borrower to the Credit Agreement Senior Secured Parties (or any of them) of every kind and description (whether or not evidenced by any note or instrument and whether or not for the

payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, pursuant to the terms of the Financing Documents (excluding any Senior Secured Debt Instrument other than this Agreement), (b) any and all sums reasonably advanced by any Credit Agreement Senior Secured Party in order to preserve the Collateral or preserve the security interest of the Credit Agreement Senior Secured Parties in the Collateral, and (c) in the event of any proceeding for the collection or enforcement of the obligations described in clauses (a) and (b) above, after an Event of Default shall have occurred and be continuing and the Senior Loans have been accelerated pursuant to Section 10.1 or Section 10.2, the expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Senior Lenders of their rights under the Senior Security Documents, together with any necessary attorneys' fees and court costs.

"OFAC" means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

"OFAC Laws" means any laws, regulations, and executive orders relating to the economic sanctions programs administered by OFAC, including the International Emergency Economic Powers Act, 50 U.S.C. sections 1701 et seq.; the Trading with the Enemy Act, 50 App. U.S.C. sections 1 et seq.; and the Office of Foreign Assets Control, Department of the Treasury Regulations, 31 C.F.R. Parts 500 et seq. (implementing the economic sanctions programs administered by OFAC).

"OFAC SDN List" means the list of "Specially Designated Nationals and Blocked Persons" maintained by OFAC.

"Officer's Certificate" means a certificate signed by one Authorized Officer of the Borrower, which officer must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer and, if applicable, includes:

- (a) a statement that the Person making such certificate or opinion has read such covenant or condition;
- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

"Offtaker" means each counterparty to an Offtake Agreement (but excluding the Borrower).

"Opinion of Counsel" means an opinion or opinions from legal counsel who is reasonably acceptable to the Administrative Agent. The counsel may be an employee of, or counsel to, the Borrower or to the Lenders, as applicable.

"Other Connection Taxes" means, with respect to the Administrative Agent, any Senior Lender or any other recipient of any payment made pursuant to any obligation of the Borrower under any Financing Document, Taxes imposed as a result of a former or present connection between such Person and the jurisdiction imposing such Tax (other than connections arising from such

Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Financing Document, or sold or assigned an interest in any Senior Loan or Financing Document).

"Other Taxes" mean any and all present or future stamp or documentary taxes, court, intangible, recording, filing, or similar Taxes arising from any payment made under any Financing Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Financing Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 4.1).

"P1 CASA Advisor" has the meaning assigned to such term in the P1 CASA.

"P1 Collateral Agent" has the meaning assigned to such term in the Preamble.

"P1 Common Facilities" has the meaning assigned to such term in the Definitions Agreement.

"P1 Construction Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Deed of Trust" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"P1 Distribution Collateral" means a Distribution LC or a Distribution Guaranty, as the context may require, for the benefit of the P1 Collateral Agent on behalf of the Senior Lenders, the CD Senior Lenders and the TCF Senior Lenders in satisfaction of Section 7.1(c).

"P1 Pledge Agreement" means the "Pledge Agreement" as defined in the Collateral and Intercreditor Agreement.

"P1 Pre-Completion Revenue Account" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Project Costs" has the meaning assigned to such term in the P1 Accounts Agreement.

"P1 Security Agreement" means the "Security Agreement" as defined in the Collateral and Intercreditor Agreement.

"Par Call Date" means June 30, 2047.

"Participant" has the meaning assigned to such term in Section 12.4(d).

"Participant Register" has the meaning assigned to such term in Section 12.4(d).

"Party" or **"Parties"** has the meaning assigned to such term in the Preamble.

"Patriot Act" means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) of 2001, and the rules and regulations promulgated thereunder from time to time in effect.

"Payment Recipient" has the meaning assigned to such term in Section 11.11(a).

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Performance Liquidated Damages" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA, including any "employee welfare benefit plan" (as defined in Section 3(1) of ERISA) and/or any "employee pension benefit plan" (as defined in Section 3(2) of ERISA), that is or was maintained or contributed to by the Borrower or any ERISA Affiliate.

"Platform" has the meaning assigned to such term in Section 12.11(h).

"Principal Payment Date" means September 30, 2029 and each September 30 and March 30 of each year thereafter.

"Qualified Energy Company" means, to the extent satisfying the KYC Requirements, a Person: (a) (i) that is, owns, or is Controlled by, or whose ultimate parent company is, (A) an international reputable oil and gas or LNG company (integrated or non-integrated) substantially involved in the exploration, development, production or marketing of hydrocarbons, (B) a power company or utility that has not less than 5000 megawatts of power generation assets under ownership, management and operation of which at least 2500 megawatts are attributable to gas-fired power generation assets, or (C) a utility or trading company, a substantial portion of whose business involves the ownership, transportation, liquefaction, regasification or purchase, sale or trading of gas or LNG, (ii) with a tangible net worth of no less than \$5,000,000,000, and (iii) that is not, or whose ultimate parent company is not, an Affiliate of any Government Authority or (b) that is, or is an Affiliate of the Sponsor or any Approved Owner.

"Qualified Investment Entities" means, to the extent satisfying the KYC Requirements, any Person that is managed or advised by a Qualified Investment House or its Related Entities; where "advised" means being in receipt of implementing advice in relation to the management of investments of a person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant Person.

"Qualified Investment House" means (a) Global Infrastructure Management, LLC or (b) any other investment manager who (i) has aggregate assets under management and committed capital in excess of \$10,000,000,000 and (ii) has satisfied the KYC Requirements.

"Qualified Manager" means an entity that (a) manages (by contract, as the manager of a limited liability company, or the general partner of a limited partnership) or advises infrastructure funds, private equity funds, pension funds, government sponsored funds or other similar funds (including publicly traded entities commonly referred to as **"master limited partnerships"**), which collectively hold assets that in the aggregate are valued in excess of \$5,000,000,000, (b) has the expertise, experience, and technical resources to successfully manage the relevant managed entity's ownership interest in the Project, and (c) satisfies the KYC Requirements. For purposes of this definition of **"Qualified Manager"**, **"advised"** means being in receipt of and implementing advice in relation to the management of investments of that person which (other than in relation to actually making decisions to implement such advice) is substantially the same as the services which would be provided by a fund manager of the relevant person.

"Qualified Mezzanine Entity" means, in connection with a foreclosure under any Mezzanine Financing Facility, a Person that:

- (a) is one of (i) an agent under such Mezzanine Financing Facility who acquires, holds, or controls the relevant Equity Interests, as agent, pending further disposition thereof for a period not to exceed 270 days (unless, prior to the expiration of such 270 days, a Rating Reaffirmation shall have occurred and, so long as the SSD Discharge Date with respect to the Senior Secured Debt under the CD Senior Notes Indenture has not occurred, a CD Indenture Rating Reaffirmation shall have occurred), (ii) either (A) any infrastructure fund, private equity fund, pension fund, government sponsored fund, or other similar fund (including publicly traded entities commonly referred to as “master limited partnerships”) or an investment vehicle owned directly or indirectly by one or more such entities that is a lender under such Mezzanine Financing Facility and is Controlled by a Qualified Manager or (B) Qualified Manager of any entity referred to in subpart (A) of this subpart (ii) and, in each of cases (A) and (B) acquires the relevant Equity Interests for its own account or for further disposition thereof, or (iii) a Person who receives the relevant Equity Interests through a *bona fide* foreclosure over the security interests granted in respect of such Mezzanine Financing Facility and such Person is (A) otherwise an Approved Owner, Qualified Investment Entity, Qualified Offtaker Investor, or Qualified Energy Company or (B) (1) has caused any Specified Rating Agency to provide a Rating Reaffirmation of the Senior Loans that gives effect to the acquisition, holding or control of such Equity Interests by such Person and (2) so long as the SSD Discharge Date with respect to the Senior Secured Debt under the CD Senior Notes Indenture has not occurred, a CD Indenture Rating Reaffirmation shall have occurred; and
- (b) is not, and is not 50% or more owned or otherwise Controlled by, and does not own or Control, a Restricted Person and satisfies the KYC Requirements.

“**Qualified Offtake Agreement**” means the Initial Offtake Agreements and any other Offtake Agreement that meets each of the following conditions: (a) such Offtake Agreement is entered into for a Qualified Term with a Qualified Offtaker; (b) such Offtake Agreement provides for the delivery of LNG on an FOB or Delivered basis; (c) the Borrower has delivered to the Administrative Agent notice of the proposed terms of such Offtake Agreement and such terms (other than as specified in the foregoing clauses (a) and (b)) are consistent, in all material respects with (or not materially less favorable in the aggregate to the interests of the Borrower than) those set forth in any of Qualified Offtake Agreements then in effect; and (d) the execution of such Qualified Offtake Agreement and performance by the Borrower of its obligations under such Qualified Offtake Agreement shall not result in a breach of any Qualified Offtake Agreement then in effect, or any Required Export Authorization then in-effect and any additional Required Export Authorizations that are necessary in connection with the execution of such Offtake Agreement.

“**Qualified Offtaker**” means, to the extent satisfying the Senior Lenders’ KYC Requirements:

- (a) (i) any Initial Offtaker so long as, either (A) such Initial Offtaker is not required to provide credit support on the Closing Date in respect of its obligations under the Initial Offtake Agreement to which is a party or (B) such Initial Offtaker has entered into the applicable Designated Offtake Agreement after the Closing Date that provides for credit support requirements that are either substantially similar to those included in the applicable Initial Offtake Agreement or more favorable to the Borrower and (ii) any entity that, as of the Closing Date, provides a guaranty in respect of an Initial Offtaker’s obligations under the Initial Offtake Agreement to which it is a party;

- (b) any Offtaker under any Offtake Agreement which, as of the date it enters into the applicable Designated Offtake Agreement (or, if later, the date on which the applicable Offtake Agreement is designated as a Designated Offtake Agreement pursuant to Section 7.4, as applicable), is, or whose obligations under such Designated Offtake Agreement are guaranteed by an entity that is, Investment Grade;
- (c) any Offtaker under any Offtake Agreement that has provided one or more (x) guarantees from a guarantor that is Investment Grade and/or (y) letters of credit issued by a Qualifying LC Issuer, that are each issued for the benefit of the Borrower in respect of its obligations under its applicable Offtake Agreement, in the case of clauses (x) and/or (y), in an amount (in the aggregate) equal to the greater of:
 - (i) 50% of the present value of the Contracted Revenues from the applicable Designated Offtake Agreement during the remaining Qualified Term of such Designated Offtake Agreement; and
 - (ii) 100% of the present value of the Contracted Revenues from the applicable Designated Offtake Agreement during the lesser of (A) the succeeding seven years under such Designated Offtake Agreement and (B) the remaining term of such Designated Offtake Agreement;
- (d) any of Vitol Inc., Glencore Ltd., Trafigura Pte Ltd, Gunvor Singapore Pte Ltd, NFE North Trading, LLC, Mercuria Energy Group Ltd, Petrobras Global Trading B.V., Axpo Singapore Pte Ltd., and Litasco SA; and
- (e) so long as the Borrower has other Designated Offtake Agreements for at least 12.25 MTPA of ACQ with an Offtaker that satisfies the criteria set forth in any of clauses (a) – (d) above, any Offtaker that has, or whose obligations under the applicable Designated Offtake Agreement are guaranteed by an entity that has, a tangible net worth of at least \$3,000,000,000 per 1.0 MTPA of ACQ.

“Qualified Offtaker Investors” means (a) any Initial Offtaker that is not required to provide credit support on the Closing Date in respect of its obligations under the Initial Offtake Agreement to which is a party, (b) any entity that, as of the Closing Date, provides a guaranty in respect of an Initial Offtaker’s obligations under the Initial Offtake Agreement to which such Initial Offtaker is a party, (c) any entity that provides a guaranty as contemplated by clause (b) or clause (c) of the definition of “Qualified Offtaker”, (d) any entity referred to in clause (d) or clause (e) of the definition of “Qualified Offtaker”, and (e) to the extent satisfying the Senior Lenders’ KYC Requirements, any entity that Controls any of the foregoing.

“Qualified Public Company” means any publicly listed indirect parent of the Borrower following a Qualified Public Offering, so long as following such Qualified Public Offering, no person (other than such entity, the Sponsor, the Approved Owners, Qualified Investment Entities, Qualified Offtaker Investors, Qualified Energy Companies, such publicly listed parent company following such Qualified Public Offering or any underwriter or placement agent participating in such Qualified Public Offering) or persons constituting a “group” (within the meaning of Section 13(d) of the Securities Exchange Act of 1934 or any successor provision) (excluding employee benefit plans of the Borrower or any of its Affiliates and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the economic interests in the Borrower and, directly or indirectly, Controls the Borrower.

“Qualified Public Offering” means any public offering of the Sponsor or its Affiliates with any indirect ownership interest in the Borrower or any direct or indirect shareholder of the Borrower.

“Qualified Term” means (a) with respect to any Designated Offtake Agreement other than a replacement Designated Offtake Agreement, the term of such Offtake Agreement used in the Base Case Forecast when determining the applicable quantum of Senior Secured Debt that could be incurred based on the revenues projected to be generated under such Offtake Agreement and (b) with respect to one or more Offtake Agreements entered into to replace any terminated Designated Offtake Agreement, (i) a term at least as long, taken as a whole, as the remaining term of the terminated Designated Offtake Agreement that such Offtake Agreement(s) are replacing or (ii) the term for such replacement Offtake Agreement(s) used in the Base Case Forecast to calculate the quantum of Senior Secured Debt required to be prepaid as a result of the terminated Designated Offtake Agreement and entry into such replacement Offtake Agreement(s).

“Qualifying LC Issuer” has the meaning assigned to such term in the P1 Accounts Agreement.

“Rating Reaffirmation” means, with respect to any matter under this Agreement requiring a Rating Reaffirmation, that any Specified Rating Agency has considered the matter and confirmed that, if implemented (or if such matter is an Event of Default, if such event continued), they would reaffirm the then current rating or provide a more favorable rating.

“RCI EPC CAPEX” has the meaning assigned to such term in the Definitions Agreement.

“RCI Owners’ Costs” has the meaning assigned to such term in the Definitions Agreement.

“Recipient” means (a) the Administrative Agent, or (b) any Senior Lender, as applicable.

“Register” has the meaning assigned to such term in Section 2.5(b).

“Regulation T”, “Regulation U”, and “Regulation X” means, respectively, Regulation T, Regulation U, and Regulation X of the Board of Governors of the Federal Reserve System.

“Reinstatement Debt” means Relevering Debt that satisfies (a) the conditions set forth in Section 2.5 *(Relevering Debt)* of the Common Terms Agreement and (b) the following conditions:

- (i) any LNG Sales Mandatory Prepayment Event has occurred;
- (ii) such LNG Sales Mandatory Prepayment Event shall have been cured pursuant to each applicable Senior Secured Debt Instrument;
- (iii) such Reinstatement Debt is incurred no later than two years after all applicable LNG Sales Mandatory Prepayments in respect of such LNG Sales Mandatory Prepayment Event have been made pursuant to the applicable Senior Secured Debt Instruments;
- (iv) the principal amount of such Reinstatement Debt does not exceed: (A) the amount of such LNG Sales Mandatory Prepayment, *plus* (B) all premiums, fees, costs, expenses and reserves (including any incremental increase in the DSRA Reserve Amounts resulting from the incurrence of such Reinstatement Debt) associated with arranging, issuing and incurring such Reinstatement Debt, *plus* (C) 105% of the P1 IR Hedge Termination

Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence;

- (v) the Borrower shall have demonstrated by delivery of an updated Base Case Forecast that all Senior Secured Debt (after taking into account the incurrence of such Reinstatement Debt) outstanding at such time is capable of amortization such that the Credit Agreement Projected DSCR commencing on the Initial Principal Payment Date and for each rolling four Fiscal Quarter period (as of the end of each Fiscal Quarter) through the Notional Amortization Period shall not be less than 1.40:1.00; provided, that for purposes of this clause (v) the Debt Service used to calculate the Credit Agreement Projected DSCR shall assume, if such Reinstatement Debt is incurred prior to the Project Completion Date, that all Senior Secured Debt Commitments will be fully drawn; and
- (vi) concurrently with the incurrence of any Reinstatement Debt, the Borrower shall apply the proceeds of such Reinstatement Debt in the following order: (A) *first*, to pay all premiums, fees, costs, expenses and reserves (including any incremental increase in the DSRA Reserve Amount resulting from the incurrence of such Reinstatement Debt) associated with arranging, issuing, and incurring such Reinstatement Debt; (B) *second*, to fund any reserves (including any incremental increase in the DSRA Reserve Amount) resulting from the incurrence of such Reinstatement Debt; (C) *third*, to (1) pay any P1 IR Hedge Termination Amount that is or will be due and payable with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence or (2) reserve an amount equal to 105% of the P1 IR Hedge Termination Amounts reasonably projected as of such date of incurrence to be due and payable by the Borrower with respect to any Senior Secured IR Hedge Agreement to be terminated in connection with any such incurrence; and (D) *fourth*, to make Distributions to the Pledgor.

“Related Entity” means, with respect to any Person, any other person directly or indirectly Controlling, Controlled by or under direct or indirect common Control with such Person.

“Release” has the meaning assigned to such term in Section 5.14(b).

“Required Export Authorizations” means, with respect to each Designated Offtake Agreement at any time, the DOE Export Authorization and any other export authorization that the Borrower designates as a “Required Export Authorization” in connection with the entry into, or designation of, a Designated Offtake Agreement, in each case, to the extent that, at such time, the volumes permitted to be exported under the DOE Export Authorization or such export authorization, as the case may be, are required in order to enable the sale of such Designated Offtake Agreement’s share of the then-applicable Base Committed Quantity of LNG in accordance with the terms of such Designated Offtake Agreement.

“Required Rating” means BBB by Kroll or an equivalent rating by another Specified Rating Agency.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Restoration Plan" has the meaning assigned to such term in the Definitions Agreement.

"Restoration Work" has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

"Restricted Lender" has the meaning assigned to such term in Section 12.28.

"Restricted Person" means a Person that is: (a) the target of Sanctions Regulations; (b) a Canada Blocked Person; (c) a Person listed on, or acting on behalf of a Person listed on, any Sanctions List; (d) a Person located, organized, or ordinarily resident in a country, territory, or region that is, or whose government is, the target of country-wide or territory-wide comprehensive Sanctions Regulations (as of the date of this Agreement, Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, the so-called Donetsk People's Republic, and the so-called Luhansk People's Republic) but excluding, for the elimination of doubt, the United States; or (e) a Person owned 50% or more by or otherwise controlled by a Person or Persons, country, territory or region in clauses (a) through (d).

"Sanctioned Country" means, at any time, a country or territory that is itself the target of comprehensive Sanctions Regulations (as of the date of this Agreement, Cuba, Iran, Syria, North Korea, Crimea, the so-called Donetsk People's Republic, and the so-called Luhansk People's Republic).

"Sanctions Authorities" means (a) the United States, (b) the United Nations (acting through the United Nations Security Council as a whole and not each individual member or member state), (c) the European Union (as a whole and not each member state), (d) the United Kingdom, (e) Canada, or (f) the respective governmental institutions and agencies of any of the foregoing, including OFAC, the United States Department of State, and HMT.

"Sanctions List" means the OFAC SDN List, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or public announcement of sanctions designation under Sanctions Regulations made by, any of the Sanctions Authorities but excluding, in all cases, to the extent such list is made by any Sanctions Authority and targeted against the United States or Persons in or connected to the United States.

"Sanctions Regulations" means the applicable economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the Sanctions Authorities, including the OFAC Laws but excluding, in all cases, to the extent administered, enacted or enforced by any other Sanctions Authority against the United States.

"Senior Financial Officer" means the chief financial officer, principal accounting officer, treasurer or comptroller of the Borrower.

"Senior Lenders" means those Senior Lenders identified on Schedule 2 and each other Person that acquires the rights and obligations of any such Senior Lender pursuant to Section 12.4(b).

"Senior Loan" means each loan made pursuant to Section 2.1(a) and Section 2.5.

"Senior Loan Borrowing" means the disbursement of Senior Loans by the Senior Lenders (or the Administrative Agent on their behalf) on the Senior Loan Borrowing Date to the Borrower in accordance with Section 2.3.

"Senior Loan Borrowing Date" means December 28, 2023 or such other date as may be agreed to by the Senior Lenders.

“Senior Loan Commitment” means, with respect to each Senior Lender, the commitment of such Senior Lender to make Senior Loans, as set forth opposite the name of such Senior Lender in the column entitled “Senior Loan Commitment” in Schedule 2, or if such Senior Lender has entered into one or more Lender Assignment Agreements, set forth opposite the name of such Senior Lender in the Register maintained by the Administrative Agent pursuant to Section 2.5(b) as such Senior Lender’s Senior Loan Commitment, as the same may be reduced in accordance with Section 2.4.

“Senior Loan Commitment Percentage” means, as to any Senior Lender at any time, the percentage that such Senior Lender’s Senior Loan Commitment then constitutes of the Aggregate Senior Loan Commitment.

“Senior Loan Debt Service Reserve Amount” means as of any date of determination, an amount reasonably projected by the Borrower to be the amount necessary to pay the forecasted Debt Service in respect of the Senior Loans from such date through (and including) the next Interest Payment Date; provided, that, for purposes of calculation of the amount specified in clause (c) of the definition of Debt Service, any final balloon payment or bullet maturity of Senior Secured Debt shall not be taken into account and instead only the equivalent of the principal payment on the immediately preceding Interest Payment Date prior to such balloon payment or bullet maturity shall be taken into account.

“Senior Loan Notes” means the promissory notes of the Borrower, substantially in the form of Exhibit A evidencing Senior Loans, in each case duly executed and delivered by an Authorized Officer of the Borrower in favor of each Senior Lender, including any promissory notes issued by the Borrower in connection with assignments of any Senior Loan of the Senior Lenders, as they may be amended, restated, supplemented or otherwise modified from time to time.

“Senior Loans DSRA” means the account established pursuant to Section 2.3(b) of the P1 Accounts Agreement with respect to the Borrower’s debt service reserve requirement hereunder.

“Senior Secured Bank Debt” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Bank Debt Holder Representative” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Credit Document” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Creditor Representative” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured Hedge Agreements” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Senior Secured IR Hedge Agreements” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Solvent” has the meaning assigned to such term in Section 5.27(b).

“SSD Discharge Date” has the meaning assigned to such term in Collateral and Intercreditor Agreement.

"Specified Rating Agency" means Kroll, Moody's, S&P, Fitch, DBRS or such other nationally recognized rating agency as approved by the Majority Senior Lenders.

"STF Development Plan" has the meaning assigned to such term in Definitions Agreement.

"Structuring Fee Letter" means the Structuring Fee Letter dated as of the date hereof, between the Borrower and the Senior Lenders.

"Subsequent Train Facility" has the meaning assigned to such term in the Definitions Agreement.

"Train 1" has the meaning assigned to such term in the T1/T2 EPC Contract.

"Train 2" has the meaning assigned to such term in the T1/T2 EPC Contract.

"Train 3" has the meaning assigned to such term in the T3 EPC Contract.

"Train Facility" has the meaning assigned to such term in the Definitions Agreement.

"Treasury Rate" means, with respect to any prepayment date, the yield determined by the Borrower in accordance with the following two paragraphs.

The Treasury Rate shall be determined by the Borrower after 4:15 p.m., New York City time (or after such time as yields on U.S. government securities are posted daily by the Board of Governors of the Federal Reserve System), on the third Business Day preceding the prepayment date based upon the yield or yields for the most recent day that appear after such time on such day in the most recent statistical release published by the Board of Governors of the Federal Reserve System designated as "Selected Interest Rates (Daily) – H.15" (or any successor designation or publication) ("**H.15**") under the caption "U.S. government securities–Treasury constant maturities–Nominal" (or any successor caption or heading) ("**H.15 TCM**"). In determining the Treasury Rate, the Borrower shall select, as applicable: (a) the yield for the Treasury constant maturity on H.15 exactly equal to the period from the prepayment date to the Par Call Date (the "**Remaining Life**"); (b) if there is no such Treasury constant maturity on H.15 exactly equal to the Remaining Life, the two yields – one yield corresponding to the Treasury constant maturity on H.15 immediately shorter than and one yield corresponding to the Treasury constant maturity on H.15 immediately longer than the Remaining Life – and shall interpolate to the Par Call Date on a straight-line basis (using the actual number of days) using such yields and rounding the result to three decimal places; or (c) if there is no such Treasury constant maturity on H.15 shorter than or longer than the Remaining Life, the yield for the single Treasury constant maturity on H.15 closest to the Remaining Life. For purposes of this paragraph, the applicable Treasury constant maturity or maturities on H.15 shall be deemed to have a maturity date equal to the relevant number of months or years, as applicable, of such Treasury constant maturity from the prepayment date.

If on the third Business Day preceding the prepayment date H.15 TCM is no longer published, the Borrower shall calculate the Treasury Rate based on the rate per annum equal to the semi-annual equivalent yield to maturity at 11:00 a.m., New York City time, on the second Business Day preceding such prepayment date of the United States Treasury security maturing on, or with a maturity that is closest to, the Par Call Date, as applicable. If there is no United States Treasury security maturing on the Par Call Date but there are two or more United States Treasury securities with a maturity date equally distant from the Par Call Date, one with a maturity date preceding the Par Call Date and one with a maturity date following the Par Call Date, the Borrower shall select the United States Treasury security with a maturity date preceding the Par

Call Date. If there are two or more United States Treasury securities maturing on the Par Call Date or two or more United States Treasury securities meeting the criteria of the preceding sentence, the Borrower shall select from among these two or more United States Treasury securities the United States Treasury security that is trading closest to par based upon the average of the bid and asked prices for such United States Treasury securities at 11:00 a.m., New York City time. In determining the Treasury Rate in accordance with the terms of this paragraph, the semi-annual yield to maturity of the applicable United States Treasury security shall be based upon the average of the bid and asked prices (expressed as a percentage of principal amount) at 11:00 a.m., New York City time, of such United States Treasury security, and rounded to three decimal places.

“U.S. Person” means a “United States person” as defined in Section 7701(a)(30) of the Code.

“U.S. Plan” has the meaning assigned to such term in Section 5.25.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 4.2(g)(ii)(B)(3).

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unmatured Credit Agreement LNG Sales Mandatory Prepayment Event” means an event that, with the lapse of a cure period, would become a Credit Agreement LNG Sales Mandatory Prepayment Event.

“Voluntary Equity Contributions” has the meaning assigned to such term in the P1 Equity Contribution Agreement.

“Waiver” has the meaning assigned to such term in the Collateral and Intercreditor Agreement.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means the Borrower, the Administrative Agent and the P1 Collateral Agent.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised

under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

CERTAIN INFORMATION OF THIS DOCUMENT HAS BEEN REDACTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. INFORMATION THAT WAS OMITTED HAS BEEN NOTED IN THIS DOCUMENT WITH A PLACEHOLDER IDENTIFIED BY THE MARK "[***]."

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

CHANGE ORDER NUMBER:

(Owner EC Number: EC00005)

(Contractor Change Number: SC00003)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: 3% PRODUCTION CAPACITY

INCREASE

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

[***]

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ (3,011,927)
- 3) The Contract Price prior to this Change Order was \$ 8,655,268,073
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ [***]
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of \$ 49,984,546
- 7) The new Contract Price including this Change Order will be \$ 8,705,252,619

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00005_SC00003 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00005_SC00003 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria:

[***]

Impact on Performance Guarantees:

[***]

Impact on Basis of Design:

As Described Above.

Impact on the Total Reimbursement Amount: **N/A**Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for the EPC of Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00003)

(Contractor Change Number: SC00005)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: REVERT REFRIGERATION**COMPRESSORS TO TABLE TOPS****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor to revert refrigeration compressor design which included refrigeration compressors on tabletops with shelters and bridge cranes. Nozzles will revert to bottom entry from top entry.

The current basis of the refrigeration compressors at grade and without shelters or bridge cranes is per contract alternative A10 for which Owner received a \$[***] per train price reduction.

ITB change C68 which introduced a pipe rack on one side of the compressors instead of on each side is unaffected by this change.

Attachments to support this Change Order Form:

Attachment 1, Schedule A-1, Exhibit A-6.3 Redline

Attachment 2, Alternative C68

Adjustment to Contract Price

- 1) The original Contract Price was \$8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 46,972,619
- 3) The Contract Price prior to this Change Order was \$8,705,252,619
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of\$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of\$ [***]
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of\$ 75,459,907
- 7) The new Contract Price including this Change Order will be \$8,780,712,526

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the

Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00003_SC00005 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00003_SC00005 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

(Owner EC Number: EC00012) (Contractor Change Number: SC00008)

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: ADDITIONAL CAMERAS &

CRASH BARRIERS REQUIRED BY FERC

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

As part of the FERC Order dated November 22, 2019, FERC conditioned the authorization with certain recommendations written in the final environmental impact statement (FEIS). Condition 97 requires a camera to be provided at the top of each LNG Storage Tank. Contractor's scope did not include cameras at the top of each LNG Storage Tank. Owner letter to Contractor, RG-NTD-000-PM-LET-00053, (see Open Items – Regulatory Commitments Table, reference to FEIS page # 4-319) and Contractor letter to Owner, 26251-100-T20-GAM-00022, agreed to prepare a change impact assessment in support of a change order for the addition of such cameras. Contractor shall provide all Work necessary to add two security cameras—one at the top of each LNG Storage Tank. Each camera to be mounted on tank platform top on the south side with 360 degree viewing capability of the tank top as well as the jetty loading berths.

In that same FERC Order, Condition 95 requires each Site entrance have crash rated vehicle barriers. Contractor's scope did not include crash barriers at each Site entrance. It instead included standard gate arms and fence gates. Owner letter to Contractor, RG-NTD-000-PM-LET-00053, (see Open Items – Regulatory Commitments Table, reference to DEIS page # 4-353) and Contractor letter to Owner, 26251-100-T20-GAM-00022, agreed to prepare a change impact assessment in support of a change order for the addition of such crash rated vehicle barriers. Contractor shall provide all Work necessary to add to the Project two vehicle crash barriers—one for the entrance lane and one for the exit lane—at both entrances per RGLNG drawing numbers RG-BL-000-CSA-DWG-00759, Rev. 001 and RG-BL-000-CSA-DWG-00679, Rev. 001 provided in Attachment 3. The two entrances comprise the main entrance next to the Security Building and the west side entrance where the heavy haul road crosses over the levee.

In addition to procurement and installation, all engineering and design specifications and drawings, including the Telecoms and Civil Drawings, shall be updated to reflect addition of cameras and crash barriers.

Attachments to support proposed change:

Attachment 1, Owner Letter RG-NTD-000-PM-LET-00053

Attachment 2, Contractor Letter 26251-100-T20-GAM-00022

Attachment 3, RGLNG drawings RG-BL-000-CSA-DWG-00759, Rev. 001 and RG-BL-000-CSA-DWG-00679, Rev. 001

Adjustment to Contract Price

- 1) The original Contract Price was \$8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1)\$ 122,432,526
- 3) The Contract Price prior to this Change Order was \$8,780,712,526
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of\$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order

in the amount of\$ [***]

- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of\$ 2,439,773
- 7) The new Contract Price including this Change Order will be \$8,783,152,299

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00012_SC00008 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00012_SC00008 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor ATowner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties'

duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00017)

(Contractor Change Number: SC00013)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: APCI WHITE PAPER**CHANGES – PARALLEL COMPRESSOR GUIDELINES****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor shall perform all Work required to implement the APCI recommendations in report. [***]

Attachments to support this Change Order:

Attachment 1, APCI White Paper, [***]

Attachment 2, Marked-Up P&IDs (the following Train 1 P&IDs are indicative of Train 2 as well):

1. RG-BL-114-PRO-PID-00010 (26251-100-M6-1T14-00010), Rev. 00A
2. RG-BL-114-PRO-PID-00015 (26251-100-M6-1T14-00015), Rev. 00A
3. RG-BL-114-PRO-PID-00019 (26251-100-M6-1T14-00019), Rev. 00A
4. RG-BL-114-PRO-PID-00020 (26251-100-M6-1T14-00020), Rev. 00A
5. RG-BL-114-PRO-PID-00021 (26251-100-M6-1T14-00021), Rev. 00A
6. RG-BL-114-PRO-PID-00022 (26251-100-M6-1T14-00022), Rev. 00A
7. RG-BL-114-PRO-PID-00026 (26251-100-M6-1T14-00026), Rev. 00A
8. RG-BL-114-PRO-PID-00029 (26251-100-M6-1T14-00029), Rev. 00A
9. RG-BL-114-PRO-PID-00036 (26251-100-M6-1T14-00036), Rev. 00A
10. RG-BL-114-PRO-PID-00041 (26251-100-M6-1T14-00041), Rev. 00A
11. RG-BL-114-PRO-PID-00042 (26251-100-M6-1T14-00042), Rev. 00A
12. RG-BL-114-PRO-PID-00043 (26251-100-M6-1T14-00043), Rev. 00A
13. RG-BL-114-PRO-PID-00044 (26251-100-M6-1T14-00044), Rev. 00A
14. RG-BL-114-PRO-PID-00045 (26251-100-M6-1T14-00045), Rev. 00A

Attachment 3, APCI White Paper Clarification Email (dated 19 Jan 2023)

Adjustment to Contract Price

- 1) The original Contract Price was \$8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1)\$ 124,872,299
- 3) The Contract Price prior to this Change Order was \$8,783,152,299
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ ***
The total Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of \$ 11,631,512
- 6) The new Contract Price including this Change Order will be \$ 8,794,783,811

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00017_SC00013 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00017_SC00013 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not constitute a full and final settlement~~

~~and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and~~ **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner
Alex Thompson
Name
Authorized Person
Title
July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor
Scott Osborne
Name
Senior Project Manager
Title
July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00013)

(Contractor Change Number: SC00015)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: AEP IMPACT TO SITE PLAN**(FOOTPRINT)****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Revise Scope of Work to reflect the following changes to the AEP Pompano switchyard:

1. AEP informed Owner and Contractor that they require a larger area to install their switchyard which results in the rework of the overall site plan, plot plans, and relocation of the water and sewer tie-in connections which increases length of water and sewage piping.
2. Remove the permanent fence around the AEP switchyard facility from Contractor Scope of Work Attachments to support this

change:

Attachment 1, Owner Letter Number RG-NTD-000-PM-LET-00028 (Contractor reference 26251-100-L20- GAM-00022), which outlines the increase in area for the AEP Pompano Switchyard

Attachment 2, Schedule A-1, Scope of Work, Section 15.15 Redline

Attachment 3, Schedule A-1, Scope of Work, Section 17.0 Redline

Attachment 4, Schedule A-1, Scope of Work, Section 22.4 Redline

Attachment 5, Certified Survey (2.410 Acre Tract); October 18th, 2022Attachment 6, Certified Survey (3.919 Acre Tract); October 18th, 2022**Adjustment to Contract Price**

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 136,503,811
- 3) The Contract Price prior to this Change Order was \$ 8,794,783,811
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ 0
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ 0
- 6) The total Aggregate Equipment, Labor and Skills Price will **increase**
by this Change Order in the amount of\$ 0
- 7) The new Contract Price including this Change Order will be \$ 8,794,783,811

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00013_SC00015 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00013_SC00015 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to ~~Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

(Owner EC Number: EC00002) (Contractor Change Number: SC00016)

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: NITROGEN PACKAGE SCOPE

FROM NEXTDECADE TO BECHTEL

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

All work related to the Facility's nitrogen system, including the engineering, design, procurement, installation, commissioning, and start-up of the nitrogen system described and referenced herein (the "Nitrogen System"), which includes the liquid nitrogen storage unit. For the avoidance of doubt, the Nitrogen System is part of the Common Systems of the Facility serving Train 1, Train 2, and Train 3.

[***]

See the following Attachments for additional details:

- Attachment 1 – Schedule A-1, Scope of Work, Section 6.0 Markup
- Attachment 2 – Schedule A-1, Scope of Work, Section 14.3 Markup
- Attachment 3 – Schedule A-1, Scope of Work, Section 14.4 Markup
- Attachment 4 – Schedule A-1, Scope of Work, Section 22.6 Markup
- Attachment 5 – Schedule A-2, Basis of Design, Section 5.3 Markup
- Attachment 6 – Schedule A-2, Basis of Design, Section 5.4 Markup
- Attachment 7 – Schedule A-2, Basis of Design, Section 5.5 Markup
- Attachment 8 – Schedule A-2, Basis of Design, Section 7.7.3, Table 9 Markup
- Attachment 9 – Schedule A-2, Basis of Design, Section 9.8 Markup
- Attachment 10 – Attachment V, Owner Furnished Items, Nos. 15 and 16 Markup

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 136,503,811
- 3) The Contract Price prior to this Change Order was \$ 8,794,783,811
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 15,918,658
- 7) The new Contract Price including this Change Order will be \$ 8,810,702,469

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00002_SC00016 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00002_SC00016 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design:

Yes, see Attachments 5, 6, 7, 8, and 9 to this Change Order EC00002_SC00016. Additionally, Utility Design Basis, Unit 67 – Nitrogen (Owner document number RG-BL-067-PRO-DES-00001 and Contractor document number 26251-100-3DR-V04-67001) to be updated accordingly.

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement:

Refer to Attachment 9, Owner Furnished Items Nos. 15 and 16

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person
Title

July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager
Title

July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00020) (Contractor Change Number: SC00019)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: TRANSFER SCOPE –**EXISTING NAV-AID DEMO FROM BECHTEL TO DREDGER****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

The demolition and extraction of pile foundations of the federal aids to navigation specified as "Existing E Rear Range Light Structure" located at the turning basin dredge area will be removed from Contractor's scope. These form the existing timber-piled structure which supports the existing range light at the channel that needs to be removed to make way for dredging activities and future turning basin for LNG ships.

Attachments to support this change:

Attachment 1, Schedule A-1, Scope of Work, Section 15.10.2 Redline

Attachment 2, Aids to Navigation Plan, 195910-000-MFNL-DR-1020

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 152,422,469
- 3) The Contract Price prior to this Change Order was \$ 8,810,702,469
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order in the amount of \$[***]
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order in the amount of \$[***]
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ (123,000)
- 7) The new Contract Price including this Change Order will be \$ 8,810,579,469

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00020_SC00019 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00020_SC00019 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00014)

(Contractor Change Number: SC00020)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: CHANGE FENCES VISIBLE**FROM HWY 48 TO GREEN****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

EPC Agreement Attachment A - Schedule A-2 (EPC Basis of Design) – Section 16.3 shall be modified to add the following paragraph:

To minimize visual impact of fencing visible from Highway 48; Contractor shall utilize green fencing on specific sections of the chain link and wire mesh security fencing outlined in the attached mark-up of drawing number RG-BL-000-CSA-DWG-00738, Rev. 00. PVC/Polymer coated fence and components shall be in compliance with ASTM F668, ASTM F2452, ASTM F1043, ASTM F1664, ASTM F1665 and ASTM F626.

Color shall be as per ASTM F934 and provided to Owner for approval. For clarity, cattle fencing is excluded as it does not need to be green.

Attachments to support proposed change:

Attachment 1, Mark-up of drawing number RG-BL-000-CSA-DWG-00738, Rev. 00

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 152,299,469
- 3) The Contract Price prior to this Change Order was \$ 8,810,579,469
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order
in the amount of \$ ***
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of \$ 355,968
- 7) The new Contract Price including this Change Order will be \$ 8,810,935,437

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the

Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00014_SC00020 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00014_SC00020 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

(Owner EC Number: EC00016) (Contractor Change Number: SC00021)

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: SITE PERMANENT BUILDING

CHANGES

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

All Work required in respect of the building size changes as summarized below. Also, note the removal of the Canteen, Visitors and Training Center from the Scope of Work.

Note: for completeness, buildings examined and determined to be adequately sized are listed as zero delta, or no change, and are not part of this change order.

[***]

See the following Attachments for additional details:

Attachment 1, Schedule A-1. Scope of Work, Section 6.0 Redline (page 16)

Attachment 2, Schedule A-1. Scope of Work, Appendix A-7 Redline

Attachment 3, Schedule A-2, Basis of Design, Section 6.2.11 Redline

Attachment 4, Schedule A-2, Basis of Design, Section 16.2 Redline

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 152,655,43
- 3) The Contract Price prior to this Change Order was \$ 8,810,935,437
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 25,958,002
- 7) The new Contract Price including this Change Order will be \$ 8,836,893,439

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00016_SC00021 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00016_SC00021 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **Update SOW and BOD to reflect deletion of Canteen Building.**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

CHANGE ORDER NUMBER:
(Owner EC Number: EC00015) (Contractor Change
Number: SC00024)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: CLEAN AGENT FIRE

SUPPRESSION IN SUBSTATIONS

The EPC Agreement between the Parties listed above is changed as follows: (attach additional documentation if necessary)

Contractor shall update Fire Protection Basis of Design (26251-100-3BD-U04-00001/RG-BL-000-PSA-DES-00002); Section 16.1.1; Table 1.c Rooms Containing Clean Agent Fire Protection Systems to add the fire suppression to the substations, or electrical rooms, as the case may be, listed below in Table-1, Clean Agent Fire Suppression Additions.

Contractor shall perform all Work required to comply with FERC Order Condition 109, which requires clean agent fire suppression systems for substations (which was not originally included in the Project), and as further set forth herein. Owner letter to Contractor, RG-NTD-000-PM-LET-00053, directed Contractor to prepare a change impact assessment in support of a change order for inclusion of clean agent systems in substations. As a result of the change impact assessment, the cost to provide the required clean agent fire protection system for each of the affected buildings is listed in Table-1, Clean Agent Fire Suppression Additions, below.

Table-1, Clean Agent Fire Suppression Additions

Building No.	Building Name	Aggregate Equipment Price	Aggregate Labor and Skills Price	Total Price
0SS-8005	EDG 1 and Firewater Substation	\$ [***]	\$ [***]	\$ 870,077
0SS-8076	BOG Substation	\$ [***]	\$ [***]	\$ 845,484
0SS-8070	Utility Substation	\$ [***]	\$ [***]	\$ 870,050
0SS-8197	Central Control Building Substation	\$ [***]	\$ [***]	\$ 621,790
0A-7091	Jetty Monitoring Building	\$ [***]	\$ [***]	\$ 761,593
0SS-4001-1&2	Main Intake Substation	\$ [***]	\$ [***]	\$ 392,477
1SS-1410A & B	Train 1 Refrig Compressor E-House	\$ --	\$ --	\$ --
2SS-1410A & B	Train 2 Refrig Compressor E-House	\$ --	\$ --	\$ --
Totals		\$ [***]	\$ [***]	\$ 4,361,469

Note: Table references Electrical Building List, RG-BL-000-ELE-LST-00003, Rev. 00A. Attachments to support this Change

Order:

Attachment 1, Owner Letter RG-NTD-000-PM-LET-00053

Adjustment to Contract Price

- 1) The original Contract Price was \$8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 178,613,439
- 3) The Contract Price prior to this Change Order was \$8,836,893,439
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The total price Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 4,361,469
- 7) The new Contract Price including this Change Order will be \$8,841,254,908

Adjustment to Key Dates

The following Key Dates are modified (list all Key Dates modified; insert N/A if no Key Dates modified) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00015_SC00024 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00015_SC00024 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order **shall not** constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives.

This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person
Title

July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager
Title

July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00034) (Contractor Change Number: SC00027)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: PERIMETER FENCE LIGHTING**PER FERC REQUIREMENTS****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

FERC Order Condition 98 requires lighting along the perimeter security fencing. Contractor's scope did not originally include lighting along the security fencing. Owner letter to Contractor, RG-NTD-000-PM-LET-00053 (26251-100- L20-GAM-00022), directed Contractor to prepare a change impact assessment in support of a change order to add lighting along the perimeter security fencing in compliance with FERC Order Condition 98. The below listing of drawings reflect such new scope for perimeter lighting, and are in accordance with RFI RB-BL-GRI-GAM-00109 (26251-100-GRI-GAM-00109). Contractor to provide all Work as a result of such changes to scope.

[***]

Attachments to support proposed change:

Attachment 1, Schedule A-2, Basis of Design, Section 16.3 Redline

Attachment 2, Owner Letter RG-NTD-000-PM-LET-00053 (26251-100-L20-GAM-00022)

Attachment 3, Contractor RFI RG-BL-GRI-GAM-00109 (26251-100-GRI-GAM-00109)

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280.000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 182,974,908
- 3) The Contract Price prior to this Change Order was \$ 8,841,254,908
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 8,718,122
- 7) The new Contract Price including this Change Order will be \$ 8,849,973,030

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00034_SC00027 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00034_SC00027 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**Impact on Performance Guarantees: **N/A****Impact on Basis of Design:** Section 16.3 to be updated as indicated in Attachment 1 to this Change Order EC00034_SC00027.Impact on the Total Reimbursement Amount: **N/A**Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

CHANGE ORDER NUMBER:

(Owner EC Number: EC00038)

(Contractor Change Number: SC00033)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: UNIT 64 DRINKING WATER

SYSTEM CHANGE TO MINIMUM SUPPLY PRESSURE

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

- 1) Per RFI RG-BL-GRI-GAM-00117, Rev. 2 (item #1 of the original query description) the potable water system (Unit 64) battery limit condition is 40 psig (minimum). This is a change from 87 psig (minimum) as defined in the Battery Limit Schedule, 195910-000-PR-SH-1001. As a result of the reduction in potable water supply pressure, required design changes include:
 - Adjustment of line sizes and valving as required to deliver water from the battery limit to each of T- 6305, T-6401, and T-7605 with consideration of the revised supply pressure.
 - Supplying all potable water users directly from the plant drinking water pumps, P-6401A/B, to ensure sufficient pressure at each user.
 - The sizes of P-6401A/B are increased accordingly.
 - Addition of piping as required to connect P-6401A/B to all users; and
- 2) Per RFI-RG-BL-GRI-GAM-00117, Rev. 2 (item #2 of the original query description) concerns were raised about the water quality in the potable water tank. To address the water quality in the potable water tank, required design changes include:
 - Addition of a cross-over line from potable water pumps to the service water tank to ensure minimum turnover of water in the potable water tank.

For clarity, item# 3 of the original query description in RFI RG-BL-GRI-GAM-00117, Rev. 2 is not in the scope of this Change Order.

Contractor to provide all Work required as a result of changes described in items 1 and 2 above. Attachments to support proposed change:

Attachment 1, Contractor RFI RG-BL-GRI-GAM-00117, Rev 2

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 191,693,030
- 3) The Contract Price prior to this Change Order was \$ 8,849,973,030
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ ***
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order by the amount of \$ 1,388,371
- 7) The new Contract Price including this Change Order will be \$ 8,851,361,401

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00038_SC00033 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00038_SC00033 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner
Alex Thompson

Name
Authorized Person

Title
July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor
Scott Osborne

Name
Senior Project Manager

Title
July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

CHANGE ORDER NUMBER:

(Owner EC Number: EC00033)

(Contractor Change Number: SC00034)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: INCREASE SOME

HAZARDOUS LINE SIZES BASED ON UPATED PHAST MODELING

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Select three (3)- and four (4) -inch lines and associated valves containing hazardous fluids are increased to six inches NPS to reduce the size of the postulated single accidental leakage source ("SALS") value as determined in accordance with PHMSA guidelines and as set forth herein. This as an Owner RFI NTD-BL-RFI-000028 initiated a vapor dispersion review associated with an updated Siting Analysis, and due to hydraulic limitations, 3- and 4-inch line and valve sizes were increase to 6 inches instead of being reduced to 2 inches. Line and valve changes are summarized in the attached Line and Valve Change Summary Table.

Attachments to support proposed change:

Attachment 1, Owner RFI NTD-BL-RFI-000028

Attachment 2, Line and Valve Change Summary Table

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 193,081,401
- 3) The Contract Price prior to this Change Order was \$ 8,851,361,401
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ ***
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of \$ 940,658
- 7) The new Contract Price including this Change Order will be \$ 8,852,302,059

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00033_SC00034 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00033_SC00034 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00001)

(Contractor Change Number: SC00035)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: UPDATE CONTRACT**ATTACHMENT B, SCHEDULE B-1****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Schedule B-1 to the Agreement is deleted and replaced with Schedule B-1 (Rev. 1) attached hereto.

Attachments to support this Change Order Form:

Attachment 1, Schedule B-1 (Rev 1) Outline of Owner Document Submittal Requirements for Review or Information

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 194,022,059
- 3) The Contract Price prior to this Change Order was \$ 8,852,302,059
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order
in the amount of \$ 0
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order
in the amount of \$ 0
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **unchanged**
by this Change Order in the amount of \$ 0
- 7) The new Contract Price including this Change Order will be \$ 8,852,302,059

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00001_SC00035 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00001_SC00035 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for the EPC of Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

(Owner EC Number: EC00007) (Contractor Change Number: SC00036)

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: CHANGE TO SECTION 3.18 –

TIMING OF ITP APPROVALS

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

1. Article 3.18 (Quality Assurance) of the Agreement shall be revised as indicated in the redline mark-up below.

3.18 Quality Assurance. No later than thirty (30) Days after the Original Effective Date, Contractor shall submit to Owner for its review and approval, not to be unreasonably withheld, a Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's quality plan ("**Quality Plan**") and Subcontractor source inspection plan as required by Attachment Y. ~~No later than thirty (30) Days after the Original Effective Date,~~ Contractor shall submit to Owner for its approval, not to be unreasonably withheld, detailed inspection and test plans and supporting construction procedures as required by Attachment Y. Prior to the commencement of the Work related to each Train, detailed quality assurance and quality control procedures and plans applicable to that portion of the Work shall be issued to Owner in accordance with Attachment Y. No later than thirty (30) Days after issuance of NTP, Contractor shall re-submit to Owner for its review and approval, not to be unreasonably withheld, an updated Quality Plan ~~(including detailed inspection and test plans and supporting construction procedures as required by Attachment Y)~~. 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 such plans, Contractor agrees that it shall keep a daily record of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including Independent Engineer) review a copy of all such inspections.

2. Attachment Y (Quality Plan Requirements) of the Agreement; Section 5.2 Inspection and Test plans – The first paragraph shall be revised as indicated in the redline mark-up below.

Inspection and test plans ("ITPs") shall be prepared by Contractor for the Work. An ITP is a document which shall detail the required inspection points and test plans and supporting construction procedures for both the Contractor and Owner for each portion of the Work. Contractor shall submit each ITP ~~for to~~ Owner for approval ~~at least~~ ^[***] ([***]) Days ~~after NTP prior to commencement of associated activities.~~

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 194,022,059
- 3) The Contract Price prior to this Change Order was \$ 8,852,302,059
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order in the amount of \$ 0
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0

7) The new Contract Price including this Change Order will be \$ 8,852,302,059

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00007_SC00036 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00007_SC00036 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner
Alex Thompson

Name
Authorized Person

Title
July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor
Scott Osborne

Name
Senior Project Manager

Title
July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**(Owner EC Number: EC00021) (Contractor Change
Number: SC00038)**OWNER:** Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: DEDUCT P-ATON AT TURNING BASIN; INSTALL P-ATON BEACON ON NEARBY USCG ATON (REAR RANGE E)**The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Eliminate from the EPC Scope of Work design and installation of the private aid to navigation structure that was to be placed off the southeast corner of the turning basin. This aid is referenced as "New Aid to Navigation Light "A" FL Y 2.5a" on drawing 195910-000-MFNL-DR-1020-000, Aids to Navigation Plan.

The light on the eliminated structure shall be placed by Contractor on the "New E Range Rear Light Structure" also referenced on drawing 195910-000-MFNL-DR-1020-000, Aids to Navigation Plan.

Attachments to support this Change Order Form:

Attachment 1, Scope of Work, Section 15.10.2 Redline

Attachment 2, Aids to Navigation Plan, 195910-000-MFNL-DR-1020; Rev. A, 12-08-17

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 194,022,059
- 3) The Contract Price prior to this Change Order was \$ 8,852,302,059
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order
in the amount of \$ ***
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **decreased**
by this Change Order in the amount of \$ (643,367)
- 7) The new Contract Price including this Change Order will be \$ 8,851,658,692

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00021_SC00038 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00021_SC00038 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design:

Marine Facilities Basis of Design, Section 5.13, Navigation Aids, requires update

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

CHANGE ORDER NUMBER:

(Owner EC Number: EC00039)

(Contractor Change Number: SC00040)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: PERIMETER, SECURITY, AND

CATTLE FENCING

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Contractor shall perform all Work necessary to add fencing, lighting, access, and security measures to the Material Offloading Facility (MOF) area as follows:

1. Increase length of chain link and welded mesh security fences by approximately 800 feet as detailed in the sketch below, and add the associated fiber optic intruder detection system, lighting, communications, access, and camera coverage, including:
 - a. Six additional 30' steel lighting poles with perimeter lighting
 - b. Two additional cameras for security
 - c. One 50-foot manual sliding security gate
 - d. One intercom for communication
 - e. One turnstile with access control
2. Increased length of cattle fence

The change at the MOF is detailed in the following excerpt from Contractor drawing 26251-100-CG-0000-00103.

[***]

Attachments to support proposed change:

Attachment 1, Schedule A-2, Basis of Design, Section 16.3 Redline

Attachment 2, Overall Site Plan, Original Fencing Basis

Attachment 3, Overall Site Plan, New Fencing Basis

Note, Owner is receiving a credit for the elimination of the chain link fence from the MOF to Rio Bravo metering station along west side of the levee.

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 193,378,692
- 3) The Contract Price prior to this Change Order was \$ 8,851,658,692
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased** by this change order in the amount of \$ 919,951
- 7) The new Contract Price including this Change Order will be \$ 8,852,578,643

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00039_SC00040 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00039_SC00040 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **See attached Markup of Basis of Design**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**

Owner EC Number: EC00025

Contractor Change Number: SC00041

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: LNG TANK FLOOR**TOLERANCE RELAXATION****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

The Parties have agreed to relax the concrete slab flatness tolerances for LNG Storage Tanks 1 and 2 as follows:

With reference to Table 20-3 of the ITB LNG Tank Specification document 195910-000-PP-SP-0001 Rev. F, the requirements of section 3A) shall be modified to require 1/4" tolerance for the horizontal surface of the base slab inside the ring established by the diameter of the inside face of the outer tank wall and the diameter that is measured radially five feet inside that same face of the outer tank wall. All other areas of the base slab shall have a 1/2" tolerance over any 10ft measurement per Table R4.8.4 in ACI117 for Conventional floor classification.

With reference to Table 20-3 of the ITB document 195910-000-PP-SP-0001 Rev. F, the requirements of section 4) shall be modified to require ACI 376 Section 11.2.1 tolerances (+1/2" to -1/4" for the wall and +1/2" to -1/2" for the roof).

Attachments to support this Change Order:

Attachment 1, RFI # 26251-100-GRI-GAM-00105/ RG-BL-GRI-GAM-00105 Rev. 01R

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 194,298,643
- 3) The Contract Price prior to this Change Order was \$ 8,852,578,643
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order
in the amount of \$ 0
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order
in the amount of \$ 0
- 6) The total Aggregate Equipment, Labor and Skills price will be **unchanged**
by this Change Order in the amount of \$ 0
- 7) The new Contract Price including this Change Order will be \$ 8,852,578,643

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones): **N/A**

Impact on Maximum Cumulative Payment Schedule: **N/A**

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00029) (Contractor Change Number: SC00042)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: SEAM WELDED PIPE**MINIMUM LINE SIZE REDUCED FROM 24 TO 16 INCHES****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor shall perform all Work necessary to modify the piping system specifications and design to allow the use of seam-welded pipe for carbon steel and low-temperature carbon steel for sizes of 16 inches in diameter, or greater.

The pipe specifications to be updated are listed in Attachment 1 to this Change Order EC00029_SC00042. Attachments to support this change:

- Attachment 1, Specifications Requiring Updates from Schedule A-2, Basis of Design, Appendix 5 – Reference Documents and Inputs
- Attachment 2, Request for Information; 26251-100-GRI-GAM-00094, Rev. 00R

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 194,298,643
- 3) The Contract Price prior to this Change Order was \$ 8,852,578,643
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order in the amount of \$**[***]**
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$**[***]**
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ (738,905)
- 7) The new Contract Price including this Change Order will be \$ 8,851,839,738

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00029_SC00042 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00029_SC00042 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design:

See listing of specifications requiring updates provided in Attachment 1 to this Change Order EC00029_SC00042

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for the EPC of Trains 1 and 2

CHANGE ORDER NUMBER:

(Owner EC Number: EC00024) (Contractor Change
Number: SC00043)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: REMOVE CRYOGENIC

COATING (PERLITE) ON LNG SPILL TRENCHES AND IMPOUNDMENT BASINS

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Eliminate cryogenic insulating coating from the LNG containment trenches as proposed via Contractor's RFI RG- BL-GRI-GAM-00057 (26251-100-GRI-GAM-00057) and RFI RG-BL-GRI-GAM-00139 (26251-100-GRI-GAM-00139) and agreed to by Owner, therefore LNG containment trenches will no longer require a cryogenic coating and are to be made of normal weight concrete.

Attachments to support proposed Change Order:

Attachment 1 – Request for Information - RG-BL-GRI-GAM-00057 (26251-100-GRI-GAM-00057)

Attachment 2 – Request for Information - RG-BL-GRI-GAM-00139 (26251-100-GRI-GAM-00139)

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 193,559,738
- 3) The Contract Price prior to this Change Order was \$ 8,851,839,738
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ ***
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ (3,437,614)
- 7) The new Contract Price including this Change Order will be \$ 8,848,402,124

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00024_SC00043 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00024_SC00043 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

CHANGE ORDER NUMBER:

(Owner EC Number: EC00040) (Contractor Change
Number: SC00045)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: FENCING REDUCTION

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Reduce Facility interior fencing inside of the security perimeter fencing and remove fencing around the Rio Bravo Pipeline custody metering station, LNG and Condensate Truck Loading Bays, Central Control Building, and Nitrogen area from Contractor's scope. See Attachment 1 depicting fencing to be removed from Contractor's scope.

Attachments to support this Change Order:

Attachment 1, Overlay of ITB Site Plan 195910-000-PI-DR-1001 with Latest Design Deliverable RG-BL- 000-PIP-PP-00001

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 190,122,124
- 3) The Contract Price prior to this Change Order was \$ 8,848,402,124
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order
in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order
in the amount of \$ [***]
- 6) The total Aggregate Equipment, Labor and Skills price will be **decreased**
by this Change Order in the amount of \$ (1,057,744)
- 7) The new Contract Price including this Change Order will be \$ 8,847,344,380

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00040_SC00045 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00040_SC00045 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

(Owner EC Number: EC00056) (Contractor Change Number: SC00046)

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: ADD PROVISIONS FOR SPARE

KNOCK-OUT DRUMS

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Add tie-in provisions to accommodate a future common spare flare knockout drum to service either the wet flare or the dry flare systems for Trains 1, 2 & 3. The tie-ins are designed based on the future spare knockout drum vapor outlet being routed to Flare 2 (B-6210B and B-6220B) only. This change order is limited to the tie-in provisions required for the future interconnection between the flare headers, the flare knock-out drums (0V-6202 and 0V-6204), the Dry Liquid Blow Vessel (0V-6203) and the future common spare flare knock-out drum. The sizing basis for the spare knock-out drum is the same as the dry flare sizing basis without the train start-up case.

The following changes are considered in this change:

- 1) Tie-ins with isolation valves for future connection Attachments to support this Change Order:

Attachment 1, Design Engineering Change Notice, document 26251-100-M6N-DK-00089, P&ID mark-ups

Attachment 2, Site Plan Markup for Future Spare Knock-out Drum (KOD)

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 189,064,380
- 3) The Contract Price prior to this Change Order was \$ 8,847,344,380
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills price will be **increased** by this Change Order in the amount of \$ 1,706,604
- 7) The new Contract Price including this Change Order will be \$ 8,849,050,984

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above) Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00056_SC00046 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00056_SC00046 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00057) (Contractor Change Number: SC00047)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: INCREASE BLAST**REQUIREMENTS ON THE MAIN INTAKE SUBSTATION****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

[***]

Owner requires Contractor to provide the Main Intake Station (Building Number OSS-4001-1) with 2.0 psig blast rating, a 200-ms duration and medium damage response. The ABB cost adder of U.S.\$ [***] for this change is provided in Amendment 1 to Option Framework Agreement (attached with Attachment 1 hereto). If a supplier other than ABB is selected to supply the Main Intake Station (Building Number OSS-4001-1), such equipment shall be provided with a 2.0 psig blast rating, a 200-ms duration and medium damage response. The total adjustment to Contract Price for this Change Order, indicated in Line 6 below, includes the ABB Cost adder, Contractor's freight, insurance, contingency and fee, all having been escalated by [***]% as shown in Pricing and Schedule Refresh #2, dated August 31st, 2022.

Attachments to support this Change Order:

Attachment 1, Owner Letter RG-NTD-000-PM-LET-00065, dated September 14, 2020

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 190,770,984
- 3) The Contract Price prior to this Change Order was \$ 8,849,050,984
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 101,073
- 7) The new Contract Price including this Change Order will be \$ 8,849,152,057

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00057_SC00047 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00057_SC00047 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**Impact on Performance Guarantees: **N/A**Impact on Basis of Design: **N/A**Impact on the Total Reimbursement Amount: **N/A**Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2**CHANGE ORDER NUMBER:**(Owner EC Number: EC00019) (Contractor Change
Number: SC00022)**OWNER:** Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: REMOVE TOE ARMOR – NO**SLOPE PROTECTION BELOW 15 FT****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Remove toe armor completely from design and construction scopes. Therefore, the RGLNG facility will not have shore protection below (-)15 feet (NAVD88). Shoreline protection at (-)15 feet (NAVD88) and above is unchanged.

Reference Documents:

RG-BL-000-MAR-PLN-00002, LNG Jetty Shore Protection Plan

RG-BL-000-MAR-DWG-00025, Rev 00A, LNG Berth Area Shore Protection Reference Plan

RG-BL-000-MAR-DWG-00026, Rev 00A, LNG Berth Area Shore Protection Sections 1 Attachments to support this Change

Order Form:

Attachment 1, Schedule A-1, Scope of Work, Section 15.10.2 Redline

Attachment 2, RG-BL-000-MAR-DWG-00025, Rev 00A, LNG Berth Area Shore Protection Reference Plan (Markup)

Attachment 3, RG-BL-000-MAR-DWG-00026, Rev 00A, LNG Berth Area Shore Protection Sections 1 (Markup)

Attachment 4, Schedule A-2, Basis of Design, Section 12.3 Redline

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 190,872,057
- 3) The Contract Price prior to this Change Order was \$ 8,849,152,057
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order
in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order
in the amount of \$ [***]
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **decreased** by this
Change Order in the amount of \$ (11,168,164)
- 7) The new Contract Price including this Change Order will be \$ 8,837,983,893

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (insert N/A if no changes or impact; attach additional documentation if necessary)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00019_SC00022 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00019_SC00022 will be incorporated in Change Order EC00068_SC00057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **Section 12.3 to be updated pursuant to Attachment 4 markup**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00070 Contractor Change Number: SC0054

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: NTP DELAY ESCALATION – A-

3 CHANGE ORDERS

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

BACKGROUND

Contractor delivered to Owner the Pricing and Schedule Refresh #2 on August 31, 2022, having pricing for each of the Change Orders set forth in Schedule A-3 ("Schedule A-3 Change Orders"), each price being valid through December 15th, 2022.

The Parties executed the Schedule A-3 Change Orders on July 13, 2023 with the price and schedule defined in Pricing and Schedule Refresh #2. As the price of executed Schedule A-3 Change Orders have no escalation or market price adjustment for the period between December 15th, 2022 and July 13, 2023 the Parties agree to an aggregated Contract Price adjustment to incorporate escalation in Schedule A-3 Change Orders based on Contractor's letter to Owner (Rio Grande LNG Project – EPC Contracts -Validation Proposal) dated May 1st 2023 provided as Attachment 1.

CHANGE

Reference Contractor's letter to Owner (Rio Grande LNG Project – EPC Contracts -Validation Proposal), per Item #2 of the table of Section 2, which estimates the price validity changes at \$9,000,000, the Contract Price shall be adjusted by an increase of \$8,620,000 to capture a cumulative, total increase to Schedule A-3 Change Orders listed in Table 1 below.

Table 1 - Schedule A-3 Change Orders

Owner Change Number	Contractor Change Number	Description
EC00005	SC00003	3% Production Capacity Increase
EC00003	SC00005	Revert Refrigeration Compressors to Table-Tops with Shelters and Cranes
EC00012	SC00008	Additional cameras, crash barriers required by FERC
EC00017	SC00013	APCI white paper changes - Parallel Compressor Guidelines - Control logic upgrades. Requirements for stable operation of the parallel strings.
EC00013	SC00015	AEP - impact to Site plan (footprint)
EC00002	SC00016	Nitrogen Package Scope from ND to Bechtel
EC00020	SC00019	Transfer scope - Existing USCG nav aid demolition from Bechtel and assign to dredger
EC00014	SC00020	Change fences visible to the public from Hwy 48 to green as requested by SPI mayor (except cattle fence)
EC00016	SC00021	Site Permanent Building Changes
EC00015	SC00024	Clean agent fire suppression in substations per FEIS requirements
EC00034	SC00027	Perimeter Fence Lighting per FERC requirement
EC00038	SC00033	Unit 64 Drinking Water System change to min. supply pressure
EC00033	SC00034	Increase some hazardous fluid line sizes based on updated PHAST modeling and resultant vapor dispersion
EC00001	SC00035	Update contract attachment B (Schedule B-1)
EC00007	SC00036	Bechtel EPC Agreement change to Section 3.18 - timing of ITP approvals
EC00021	SC00038	Deduct P-ATON at turning basin from scope; install P-ATON beacon on nearby USGC ATON (Rear Range E) in Bechtel's scope
EC00039	SC00040	Perimeter, Security, and cattle fencing
EC00025	SC00041	LNG Storage Tank - Concrete Outer Tank Construction Tolerance Relaxation
EC00029	SC00042	Seam Welded Pipe Minimum Line Size Reduced from 24 to 16 Inches
EC00024	SC00043	Remove Cryogenic Coating (Perlite) on LNG Spill Trenches and Impoundment Basins
EC00040	SC00045	Fencing Reduction
EC00056	SC00046	Add provisions for spare knock out drums.
EC00057	SC00047	Increase blast requirements on the Main Intake Substation
EC00019	SC00022	Remove Toe Armor, no slope protection below 15

Attachments to support this Change Order:

Attachment 1 - Contractor's letter to Owner (Rio Grande LNG Project – EPC Contracts -Validation Proposal) dated May 1st 2023.

Adjustment to Contract Price

1. The original Contract Price was \$ 8,658,280,000
2. Net change by previously authorized Change Orders (See Appendix 1) \$ 179,703,893
3. The Contract Price prior to this Change Order was \$ 8,837,983,893
4. The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
5. The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
6. The total Aggregate Equipment, Labor and Skills price will be increased by this Change Order in the amount of \$ 8,620,000
7. The new Contract Price including this Change Order will be \$ 8,846,603,893

Adjustment to Key Dates

The following Key Dates are modified:

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00070_SC0054 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00070_SC0054 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00011

Contractor Change Number: SC00007

EFFECTIVE DATE OF CHANGE ORDER:

July 14, 2023

TITLE: TEMPORARY WATER - NTP+

[***]

BACKGROUND

Per Attachment V (Owner Furnished Items) of the Agreement, Item 5, Owner is to furnish, "installation of a fresh water supply line and tie-in point completed" at NTP+[***] ([***] Days). Owner anticipates the fresh water supply line and tie-in point will be available to Contractor at approximately the end of the 10th month following NTP. Therefore, Parties agree Contractor will perform the Work required to establish temporary infrastructure to deliver water required for the Work until the fresh water supply line and tie-in point becomes available. If Owner fails to furnish a fresh water supply line and tie-in point before the end of NTP+[***]months, Owner may request in writing to extend the duration of Contractor provided water supply through NTP + [***]months. If Owner fails to furnish a fresh water supply line and tie-in point before the end of NTP+[***]months, Contractor shall be entitled to a subsequent Change Order. The Parties agree Contractor may utilize barges or trucks as necessary to support the planned work and the water transportation activities may be performed 24 hours per Day, 7 Days per week.

Owner shall pay Contractor on a lump sum basis to construct the temporary infrastructure. Owner shall be responsible for costs, on a provisional sum basis, beginning on Day [***] following NTP, for the transportation costs of delivering water via such temporary infrastructure, the fixed monthly costs to operate such temporary infrastructure, and any incremental cost for water (based on water unit rates provided by the Port of Brownsville) that Contractor is required to obtain from sources other than the Port of Brownsville.

CHANGE

The EPC Agreement between the Parties listed above is changed as follows:

1. [***]
 2. [***]
 3. [***]
 4. [***]
 5. **First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)** – Append the Baseline Schedule C-2 Payment Milestones as indicated in Attachment 1 to this Change Order.
 6. **First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)** – This schedule shall be updated per the Schedule C-3 as provided in Attachment 2 to this Change Order.
 7. **First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)** – This appendix shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 3 to this Change Order.
-

Attachments to support this Change Order:

Attachment 1 – Payment Milestones to be appended to Baseline Schedule C-2 Payment Milestones Attachment 2 – First Amended Schedule C-3 – (Maximum Cumulative Payment Schedule), as updated by this Change Order

Attachment 3 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 188,323,893
- 3) The Contract Price prior to this Change Order was \$ 8,846,603,893
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills price will be **increased** by this Change Order in the amount of \$ 12,205,000
- 7) The new Contract Price including this Change Order will be \$ 8,858,808,893

Adjustment to Key Dates

The following Key Dates are modified:

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria:

Impact on Payment Schedule (including, as applicable, Payment Milestones):

Additional payment milestones as provided in Attachment 1 - Payment Milestones to be appended to Baseline Schedule C-2 Payment Milestones

Replacement of the Maximum Cumulative Payment Schedule as provided in Attachment 2 – First Amended Schedule C-3 – (Maximum Cumulative Payment Schedule), as updated by this Change Order.

Impact on Minimum Acceptance Criteria: N/A

Impact on Performance Guarantees: N/A **Impact on Basis of Design:** N/A

Impact on the Total Reimbursement Amount: N/A

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to ~~Section 6.4~~ of the Agreement, this Change Order ~~shall not~~ constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in ~~this Change Order upon the Change Criteria and~~ **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner
Alex Thompson

Name
Authorized Person

Title
July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor
Scott Osborne

Name
Senior Project Manager

Title
July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

CHANGE ORDER NUMBER:

Owner EC Number: EC00036

Contractor Change Number: SC0062

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 17, 2023

TITLE: SHORELINE RESTORATION

BACKGROUND

[***]

Changes to the Rely Upon Information have been established and pursuant to Article 6.2A.9 the Contract Price shall be adjusted. To reduce costs and optimize the use of soil materials on the Site, Contractor will construct the levee in accordance with the revised levee plans and sections included in Attachment 3 (Modified Levee Drawings) to this Change Order and will perform excavation, or dredging, of the Berth pocket and Turning Basin down to -15ft NAVD88.

CHANGE

The EPC Agreement between the Parties listed above is changed as follows:

- 1. Attachment A, Schedule A-1; Scope of Work** – Section 10.2.4, item 5 shall be amended as noted in red- line in Attachment 5 – Schedule A-1, Scope of Work, Section 10.2.4(5) Red-Line Mark-up
- 2. -Attachment A, Schedule A-2; Basis of Design** – Section 16.1.2 shall be amended as noted in red-line in Attachment 6 – Schedule A-2, Scope of Work, Section 16.1.2 Red-Line Mark-up
- 3. First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)** – This appendix shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 7 to this Change Order.
- 4. First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)** – Append the Baseline Schedule C-2 Payment Milestones as indicated in Attachment 8 to this Change Order.
- 5. First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)** – This schedule shall be updated per the Schedule C-3 as provided in Attachment 9 to this Change Order.

Attachments to support this Change Order:

Attachment 1 – Shoreline Survey Report – Part 1 / Part 2

Attachment 2 – Shoreline Quantity Summary

Attachment 3 – Modified Levee Drawings

Attachment 4 – Dredging and Shore Protection Drawings

Attachment 5 – Schedule A-1, Scope of Work, Section 10.2.4(5) Red-line Mark-up

Attachment 6 – Schedule A-2, Basis of Design, Section 16.1.2 Red-line Mark-up

Attachment 7 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order Attachment 8 – Payment Milestones to be appended to Baseline Schedule C-2 Payment Milestones Attachment 9 – First Amended Schedule C-3 – (Maximum Cumulative Payment Schedule), as updated by this Change Order.

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 200,528,893
- 3) The Contract Price prior to this Change Order was \$ 8,858,808,893
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills price will be **increased** by this Change Order in the amount of \$ 12,000,000
- 7) The new Contract Price including this Change Order will be \$ 8,870,808,893

Adjustment to Key Dates

The following Key Dates are modified:

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria:

Impact on Payment Schedule (including, as applicable, Payment Milestones):

Additional payment milestones as provided in Attachment 8- Payment Milestones to be appended to Baseline Schedule C-2 Payment Milestones.

The Schedule C-3 (Maximum Cumulative Payment Schedule) is updated as provided in Attachment 9.

Impact on Minimum Acceptance Criteria: N/A

Impact on Performance Guarantees: N/A

Impact on Basis of Design: As reflected in Attachment 6 included to this Change Order.

Impact on the Total Reimbursement Amount: N/A

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: Impact to Scope of Work as reflected in Attachment 5 to this Change Order.

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to ~~Section 6.4~~ of the Agreement, this Change Order **shall not** constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in ~~this Change Order upon the Change Criteria~~ and **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER FORM

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Train 1&2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00074 Contractor Change Number:
SC0067

EFFECTIVE DATE OF CHANGE ORDER:

July 17, 2023

TITLE: ADDITIONAL LNG BERTH
(JETTY 2)

The Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

BACKGROUND

Pursuant to Article 7.1B.3. and Attachment GG (Additional Work Options) to the Agreement, Owner elects to add a second jetty ("Jetty 2") as described in Schedule A-1, Scope of Work, Rev. 003 and Schedule A-2, Basis of Design, Rev. 003 from the Amended and Restated Fixed Price Turnkey Agreement for Trains 1 & 2. The addition of Jetty 2 will enable the hook-up of 2 LNG carriers at the same time, and once a third tank is added with associated loading pumps installed, allows increased total vessel loading rates. For the Jetty 2 scope, the Contract Price will be adjusted by the amount defined in the First Amended Schedule C-4 (Additional Work Options Pricing) of the Agreement. This pricing did not include the clean agent fire protection systems in the Jetty 2 monitoring building which is required to comply with FERC Order Condition 109.

CHANGE

- 1. Addition of Jetty 2** – Contractor shall perform all Work necessary to add Jetty 2 as described in Attachment A, Schedule A-1, Rev. 003 and Schedule A-2, Rev. 003 from the Amended and Restated Fixed Price Turnkey Agreement for Trains 1 & 2. The scope of Jetty 2 (or Berth 2), also referenced in FEED deliverables as Option C, is indicated on drawing 195910-000-PI-DR-1003 showing scope options beyond the Facility. The Contract Price adjustment for this change is \$259,470,000.

Contractor shall perform all Work necessary, including updating the Fire Protection Basis of Design (26251- 100-3BD-U04-00001/RG-BL-000-PSA-DES-00002); Section 16.1.1; Table 1.c Rooms Containing Clean Agent Fire Protection Systems, to add a clean agent fire protection system required to comply with FERC Order Condition 109 to the electrical room in Jetty Monitoring Building 2 (0A-7092). The Contract Price adjustment for this change is \$761,593.

2. [***].

3. [***] – [***]. The Contract Price adjustment for this change is (\$2,049,569).

Attachments:

Attachment 1 – Redline of Attachment A, Schedule A-1 Scope of Work, Appendix A-3: Priced Option Jetty 2 Attachment 2 – First Amended Attachment KK (as updated by this Change Order)

Attachment 3 – Contract Price Adjustment Calculation for Commodity Adjustments in Attachment KK.

45045406v2 D-1-1

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 212,528,893
- 3) The Contract Price prior to this Change Order was \$ 8,870,808,893
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The total price of Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 258,182,024
- 7) The new Contract Price including this Change Order will be \$ 9,128,990,917

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00074_SC0067 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00074_SC0067 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: The Total Reimbursement Amount is changed from \$68,637,088 to \$70,796,036, an incremental increase of \$2,158,948.

Any other impacts to obligation or potential liability of Contractor or Owner under the Agreement: **N/A**

Select either A or B :

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the original Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 14, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

CHANGE ORDER NUMBER:

Owner EC Number: EC00066 Contractor Change Number: SC0055

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 17, 2023

TITLE: NTP TRUE UP FOR [***]

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

CHANGE

1. **Contract Price** - Pursuant to Article 7.1B.5. and the First Amended Attachment KK of the Agreement, the Contract Price is adjusted to account for [***].

2. [***].

Attachments to support this Change Order:

Attachment 1 – Updated Quote, [***] dated July 12, 2023

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 470,710,917
- 3) The Contract Price prior to this Change Order was \$ 9,128,990,917
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order in the amount of \$[***]
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$[***]
- 6) The total Aggregate Equipment, Labor and Skills price will be **decreased** by this Change Order in the amount of \$(6,822,768)
- 7) The new Contract Price including this Change Order will be \$ 9,122,168,149

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00066_SC0055 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00066_SC0055 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: The Total Reimbursement Amount is changed from \$70,796,036 to \$70,319,156, a decrease of \$476,880.

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00064

Contractor Change Number: SC0056

EFFECTIVE DATE OF CHANGE ORDER:

July 19, 2023

 TITLE: NTP CONTRACT PRICE

ADJUSTMENT FOR FOREIGN CURRENCY

 The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

[***]

Attachments to support this Change Order:

Attachment 1 – Euro Exchange Rate; [***] – Bloomberg FX Fixings

 Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 463,888,149
- 3) The Contract Price prior to this Change Order was \$ 9,122,168,149
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ [***]
- 6) The total Aggregate Equipment, Labor and Skills price will be **increased** by this Change Order in the amount of \$ 29,063,474
- 7) The new Contract Price including this Change Order will be \$ 9,151,231,623

Adjustment to Key Dates

 The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

 The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

 The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

 The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

 The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

 Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

 Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00064_SC0056 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00064_SC0056 will be incorporated in Change Order EC00068_SC0057 to be executed within one month after NTP.

 Impact on Minimum Acceptance Criteria: **N/A**

 Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: The Total Reimbursement Amount is changed from \$70,319,156 to \$72,558,610, an incremental increase of \$2,239,454.

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner
Alex Thompson
Name
Authorized Person
Title
July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor
Scott Osborne
Name
Senior Project Manager
Title
July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00068

Contractor Change Number: SC0057

EFFECTIVE DATE OF CHANGE ORDER:

August 11, 2023

TITLE: ATTACHMENT C UPDATE

BACKGROUND

Owner and Contractor executed Change Orders to the Agreement that deferred the changes to Attachment C. The changes to Attachment C from each of the Change Orders listed in Table 1 (Previously Executed Change Orders Requiring Incorporation into Attachment C) are to be incorporated into Attachment C as provided for in this Change Order EC00068_SC0057.

Table 1 – Previously Executed Change Orders Requiring Incorporation into Attachment C

Owner Change Number	Contractor Change Number	Description
Section A – Change Orders Executed Prior to NTP		
EC00062 rev. 1	SC0058 rev. 1	High Value Order True-Up (ABB, Virginia Transformer)
EC00088	SC0068	High Value Order True-Up - Final
EC00095	SC0069	Attachment KK Baseline Index Value Updates
Section B – Change Orders Executed Post NTP and Included in Attachment A, Schedule A-3		
EC00005	SC00003	3% Production Capacity Increase
EC00003	SC00005	Revert Refrigeration Compressors to Table-Tops with Shelters and Cranes
EC00012	SC00008	Additional cameras, crash barriers required by FERC
EC00017	SC00013	APCI white paper changes - Parallel Compressor Guidelines
EC00013	SC00015	AEP - impact to Site plan (footprint)
EC00002	SC00016	Nitrogen Package Scope from NextDecade to Bechtel
EC00020	SC00019	Transfer scope - Existing Nav-Aid Demo from Bechtel to Dredger
EC00014	SC00020	Change Fences Visible from Hwy 48 to Green
EC00016	SC00021	Site Permanent Building Changes
EC00015	SC00024	Clean Agent Fire Suppression in Substations
EC00034	SC00027	Perimeter Fence Lighting per FERC requirement
EC00038	SC00033	Unit 64 Drinking Water System Change to Minimum Supply Pressure
EC00033	SC00034	Increase Some Hazardous Line Sizes based on Updated PHAST Modeling
EC00001	SC00035	Update Contract Attachment B, Schedule B-1
EC00007	SC00036	Change to Section 3.18 - Timing of ITP approvals
EC00021	SC00038	Deduct P-ATON at turning basin from scope; install P-ATON beacon on nearby USGC ATON (Rear Range E)
EC00039	SC00040	Perimeter, Security, and cattle fencing
EC00025	SC00041	LNG Tank Floor Tolerance Relaxation
EC00029	SC00042	Seam Welded Pipe Minimum Line Size Reduced from 24 to 16 Inches
EC00024	SC00043	Remove Cryogenic Coating (Perlite) on LNG Spill Trenches and Impoundment Basins
EC00040	SC00045	Fencing Reduction
EC00056	SC00046	Add provisions for spare knock out drums.
EC00057	SC00047	Increase blast requirements on the Main Intake Substation
EC00019	SC00022	Remove Toe Armor, no slope protection below 15
Section C¹ – Change Orders Executed Post-NTP and Not Included in Attachment A, Schedule A-3		
EC00070	SC0054	NTP Delay Escalation – A-3 Change Orders
EC00074	SC0067	Additional LNG Berth (Jetty 2)
EC00066	SC0055	NTP True-up for [***]
EC00064	SC0056	NTP Contract Price Adjustment for Foreign Currency

Note 1 – Change Orders EC00011_SC0007 (Temporary Water – NTP+[**]) and EC00036_SC0062 (Shoreline Restoration) were incorporated into Attachment C upon execution.

CHANGE

The EPC Agreement between the Parties listed above is changed as follows:

1. **First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)** – This appendix shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 1 to this Change Order.
2. **First Amended Attachment C, First Amended Schedule C-1 (Earned Value Contract Price Breakdown)** – This schedule shall be updated per the Schedule C-1 (Earned Value Contract Price Breakdown) as provided in Attachment 2 to this Change Order.
3. **First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)** – This schedule shall be updated per the Schedule C-2 (Payment Milestones) as provided in Attachment 3 to this Change Order.
4. **First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)** – This schedule shall be updated per the Schedule C-3 (Maximum Cumulative Payment Schedule) as provided in Attachment 4 to this Change Order.

Attachments to support this Change Order:

Attachment 1 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order Attachment 2 – First Amended Schedule C-1 (Earned Value Contract Price Breakdown), as updated by this Change Order

Attachment 3 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order

Attachment 4 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 492,951,623
- 3) The Contract Price prior to this Change Order was \$ 9,151,231,623
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order in the amount of \$ 0
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- 6) The total Aggregate Equipment, Labor and Skills price will be **unchanged** by this Change Order in the amount of \$ 0
- 7) The new Contract Price including this Change Order will be \$ 9,151,231,623

Adjustment to Key Dates

The following Key Dates are modified:

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria:

Updates to the First Amended Appendix 1 (Contract Price Breakdown), the First Amended Schedule C-1 (Earned Value Contract Price Breakdown), the First Amended Schedule C-2 (Payment Milestones), and the First Amended Schedule C-3 – (Maximum Cumulative Payment Schedule) are provided in the attachments to this Change Order EC00068_SC0057.

Impact on Minimum Acceptance Criteria: N/A

Impact on Performance Guarantees: N/A

Impact on Basis of Design: N/A

Impact on the Total Reimbursement Amount: N/A

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~
Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties'

duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner
Alex Thompson
Name
Authorized Person
Title
July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor
Scott Osborne
Name
Senior Project Manager
Title
July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 14, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2**CHANGE ORDER NUMBER:**

Owner EC Number: EC00058

Contractor Change Number SC0052

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

September 22, 2023

TITLE: DESIGN OPTIMIZATIONS**The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor shall perform all Work necessary to incorporate the following design optimizations to support future Facility expansions.

1. The following changes shall be made to the Equipment specified below in both Train 1 and Train 2. (Refer to Change Order EC00062_SC00058 Rev. 1 – High Value Order True-up which captures the Equipment costs for items a) and b) below from Contractor's High Value Order EKL0-00001 to ABB and captures the Equipment cost for item c) below from Contractor's High Value Order ETP0-00001 to Virginia Transformers). All other Equipment costs are captured in this Change Order.
 - a) Train North Substation (1SS-8010)
 Refer to Attachment 2 – Red-Line Mark-up of DWG RG-BL-000-ELE-SLD-00003; Overall One-Line Diagram Train 1 Substations and Attachment 3 – Red-Line Mark-up of DWG RG-BL-100-ELE-BPL- 00001; Equipment Location Plan 1SS-8010 North Substation Train 1
 Increase bus rating in 34.5kV switchgear from 2000A to 2500A.
 Increase main breaker and tie breaker rating from 2000A to 2500A.
 Provide 2 spare 34.5kV breakers in 35kV switchgear.
 Reserve space for 480V Essential breaker feeders in essential MCC
 - b) Train South Substation (1SS-8015)
 Refer to Attachment 2 – Red-Line Mark-up of DWG RG-BL-000-ELE-SLD-00003; Overall One-Line Diagram Train 1 Substations and Attachment 3 – Red-Line Mark-up of DWG RG-BL-100-ELE-BPL- 00001; Equipment Location Plan 1SS-8010 North Substation Train 1
 Reserve space for 480V Essential breaker feeders in essential MCC.
 - c) Increase the Train North 138/34.5kV transformer rating from 80/106.7MVA to 80/106.7/133MVA.
 - d) Provide additional 138kV and 35kV cable capacity to carry the load of the above increased switchgear rating.
2. Modify the orientation of Train 1 and Train 2 Thermal Oxidizer by rotating them 180 degrees.
3. Modify Train 1 and Train 2 sub-pipe rack foundation and steel design to allow for a potential future load based on data in the table below. Refer to Attachment 1 – Red-Line Mark-up of DWG RG-BL-100-PIP-PP-00001: Unit Plot Plan LNG Train 1.

[***]

4. First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown) shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 4 to this Change Order.
5. First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones) shall be updated per the C-2 Payment Milestones as indicated in Attachment 5 to this Change Order.
6. First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule) shall be updated per the Schedule C-3 as provided in Attachment 6 to this Change Order.

Attachments to support this Change Order:

- Attachment 1 – Red-Line Mark-up of DWG RG-BL-100-PIP-PP-00001: Unit Plot Plan LNG Train 1
- Attachment 2 – Red-Line Mark-up of DWG RG-BL-000-ELE-SLD-00003; Overall One-Line Diagram Train 1 Substations
- Attachment 3 – Red-Line Mark-up of DWG RG-BL-100-ELE-BPL-00001; Equipment Location Plan 1SS- 8010 North Substation Train 1
- Attachment 4 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order
- Attachment 5 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order
- Attachment 6 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 492,951,623
- 3) The Contract Price prior to this Change Order was \$ 9,151,231,623
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of \$ 3,438,500
- 7) The new Contract Price including this Change Order will be \$ 9,154,670,123

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones): The Schedule C-2 (Payment Milestones) is updated as provided in Attachment 5.

Impact on Maximum Cumulative Payment Schedule:

The Schedule C-3 (Maximum Cumulative Payment Schedule) is updated as provided in Attachment 6. Impact on Minimum Acceptance Criteria:

N/A

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~Pursuant to Section 6.4 of the Agreement, this Change Order **shall not** constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00076 Contractor Change Number SC0065

EFFECTIVE DATE OF CHANGE ORDER:

December 4, 2023

TITLE: REMOVAL OF TRUCK

WEIGH BRIDGES & ADDITION OF BOG CONTROL VALVES

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

BACKGROUND

Truck Weigh Bridge

TNQ092 was raised during FEED verification and identified a need to incorporate truck weigh bridges and scales into the condensate metering system at each loading location to achieve meter accuracy requirements and provide overfill protection and therefore two weigh bridges and scales were added to the scope. Further review determined that utilizing weigh bridges and scales is not typical and is not recommended as it will add unnecessary congestion and complexity to the area. The two weigh bridges are to be removed and manual sampling points and Coriolis meters will be installed.

Boil-Off Gas Control Valves

Flow control valves are to be added as shown in Attachment 3 to this Change Order within the battery isolation limits for Train 1 and Train 2 on the boil-off gas supply lines to the HP fuel gas system to allow for controlled distribution of boil-off gas between Train 1 and Train 2.

CHANGE

1. **Attachment A, Schedule A-1, Appendix A-6, Exhibit A-6.2 (The Bid Query Log)**; TNQ092 shall be updated as provided in Attachment 1 to this Change Order.
2. **Attachment A, Schedule A-1 (Scope of Work), Section 6.0 (Scope of Facilities)**; shall be amended to add the following sub-bullet under, ● Common Systems and infrastructure required for the operation of Train 1:

Common weighbridge for general truck weighing services.
3. **Attachment A, Schedule A-2 (Basis of Design)**; shall be modified as follows:
 - a. **Section 10.1 – Refrigerant Storage and Purification (Unit 31)**; shall be updated per the red-line mark-up as provided in Attachment 2 to this Change Order.
 - b. **Section 10.2.6 – BOG System**; shall be updated per the red-line mark-up as provided in Attachment 2 to this Change Order.
 - c. **Section 10.3 Condensate Storage and Loading (Unit 35)**; shall be updated per the red-line mark-up as provided in Attachment 2 to this Change Order.
4. **First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)**; shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 4 to this Change Order.
5. **First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)**; shall be updated per the C-2 Payment Milestones as provided in Attachment 5 to this Change Order. 6. **First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)**; shall be updated per the Schedule C-3 as provided in Attachment 6 to this Change Order.

Attachments to support this Change Order:

Attachment 1 – Attachment A, Schedule A-1, Appendix A-6, Exhibit A-6.2 (The Bid Query Log) – Updated TNQ092, as updated by this Change Order.

Attachment 2 – Attachment A, Schedule A-2 (Basis of Design), Red-Line Mark-Up of Section 10.1, Section 10.2.6, and Section 10.3

Attachment 3 – Boil Off Gas Control Valve Addition

Attachment 4 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order

Attachment 5 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order

Attachment 6 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 496,390,123
- 3) The Contract Price prior to this Change Order was \$ 9,154,670,123
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order
in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills Price will be **decreased**
by this Change Order in the amount of \$ (740,200)
- 7) The new Contract Price including this Change Order will be \$ 9,153,929,923

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones): The Schedule C-2 (Payment Milestones) is updated as provided in Attachment 5.

Impact on Maximum Cumulative Payment Schedule:

The Schedule C-3 (Maximum Cumulative Payment Schedule) is updated as provided in Attachment 6.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: As reflected in Attachment 2 to this Change Order.

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to ~~Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement
for Trains 1 and 2

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 14, 2022

CHANGE ORDER NUMBER:
Owner EC Number: EC00099 Contractor Change Number
SC0071

EFFECTIVE DATE OF CHANGE ORDER:
December 4, 2023

TITLE: STUDY – HIGH NITROGEN

FEED GAS IMPACT ON RGLNG FACILITY DESIGN

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

BACKGROUND

An engineering study will be performed to determine the impact to the current design of the RGLNG Facility when the feed gas entering the Facility has a nitrogen content (mole percent) greater than the current design basis maximum defined in Section 7.4.2 of Attachment A, Schedule A-2 (Basis of Design).

Contractor shall perform the first phase (Phase 1) of the study and provide the required deliverables in accordance with Attachment 1 (RG-NTD-000-PE-SOW-000003: Conceptual Study Scope of Work – High Nitrogen Feed Gas Impact on Rio Grande LNG Facility Design) to this Change Order. Contractor shall complete the Phase 1 scope of work within 52 days of the Effective Date of this Change Order.

CHANGE

1. **First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)**; shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 2 to this Change Order.
2. **First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)**; shall be updated per the C-2 Payment Milestones as provided in Attachment 3 to this Change Order.
3. **First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)**; shall be updated per the Schedule C-3 as provided in Attachment 4 to this Change Order.

Attachments to support this Change Order:

Attachment 1 – RG-NTD-000-PE-SOW-000003: Conceptual Study Scope of Work – High Nitrogen Feed Gas Impact on Rio Grande LNG Facility Design; Rev. 01

Attachment 2 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order

Attachment 3 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order

Attachment 4 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 8,658,280,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 495,649,923
- 3) The Contract Price prior to this Change Order was \$ 9,153,929,923
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased**
by this Change Order in the amount of \$ 181,600
- 7) The new Contract Price including this Change Order will be \$ 9,154,111,523

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones): The Schedule C-2 (Payment Milestones) is updated as provided in Attachment 3.

Impact on Maximum Cumulative Payment Schedule: The Schedule C-3 (Maximum Cumulative Payment Schedule) is updated as provided in Attachment 4. Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to ~~Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner
Alex Thompson

Name
Authorized Person

Title
July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor
Scott Osborne

Name
Senior Project Manager

Title
July 13, 2023

Date of Signing

CERTAIN INFORMATION OF THIS DOCUMENT HAS BEEN REDACTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL. INFORMATION THAT WAS OMITTED HAS BEEN NOTED IN THIS DOCUMENT WITH A PLACEHOLDER IDENTIFIED BY THE MARK "[***]."

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 15, 2022

CHANGE ORDER NUMBER:

(Owner EC Number: EC00041)

(Contractor Change Number: SCT30001)

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

TITLE: CLEAN AGENT FIRE

SUPPRESSION IN SUBSTATIONS

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Contractor shall update Fire Protection Basis of Design (26251-100-3BD-U04-00001/RG-BL-000-PSA-DES-00002); Section 16.1.1; Table 1.c Rooms Containing Clean Agent Fire Protection Systems to add the fire suppression to the substations, or electrical rooms, as the case may be, listed below in Table-1, Clean Agent Fire Suppression Additions.

Contractor shall perform all Work required to comply with FERC Order Condition 109, which requires clean agent fire suppression systems for substations (which was not originally included in the Project) and as further set forth herein. Owner letter to Contractor, RG-NTD-000-PM-LET-00053, directed Contractor to prepare a change impact assessment in support of a change order for inclusion of clean agent systems in substations. As a result of the change impact assessment the cost to provide the required clean agent fire protection system for each of the affected buildings is listed in Table-1 Clean Agent Fire Suppression Additions, below.

Building No.	Building Name	Aggregate Equipment Price	Aggregate Labor and Skills Price	Total Price
3SS-8030	Train 3 North Substation	\$ [***]	\$ [***]	\$ 1,148,663
3SS-8035	Train 3 South Substation	\$ [***]	\$ [***]	\$ 904,288
3SS-1752	Train 3 HRU ASD Substation	\$ [***]	\$ [***]	\$ 391,050
3SS-1410A & B	Train 3 Refrig Compressor E-House	\$ --	\$ --	\$ --
Totals		\$ [***]	\$ [***]	\$2,444,000

Table-1, Clean Agent Fire Suppression Additions

Note: Table references Electrical Building List, RG-BL-000-ELE-LST-00003, Rev. 00A. Attachments to support this Change Order:

- Attachment 1, Owner Letter RG-NTD-000-PM-LET-00053

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ (2,093,385)
- 3) The Contract Price prior to this Change Order was \$ 3,040,240,615
- 4) The Aggregate Equipment Price will be **increased** by this Change Order
in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order
in the amount of \$ ***
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this
Change Order in the amount of \$ 2,444,000
- 7) The new Contract Price including this Change Order will be \$ 3,042,684,615

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00041_SCT30001 will be incorporated in Change Order EC00069_SCT3016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00041_SCT30001 will be incorporated in Change Order EC00069_SCT3016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and~~ **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives.

This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner
Alex Thompson

Name
Authorized Person

Title
July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor
Scott Osborne

Name
Senior Project Manager

Title
July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Train 3**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00018)

(Contractor Change Number: SCT30002)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: APCI WHITE PAPER**CHANGES – PARALLEL COMPRESSOR GUIDELINES****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor shall perform all Work to implement the APCI recommendations in report. [***].

Attachments to support this Change Order Form:

- Attachment 1, APCI White Paper, [***]
- Attachment 2, Marked-Up P&IDs (Train 1 P&IDs are indicative of Train 3 P&IDs):
 1. RG-BL-114-PRO-PID-00010 (26251-100-M6-1T14-00010), Rev. 00A
 2. RG-BL-114-PRO-PID-00015 (26251-100-M6-1T14-00015), Rev. 00A
 3. RG-BL-114-PRO-PID-00019 (26251-100-M6-1T14-00019), Rev. 00A
 4. RG-BL-114-PRO-PID-00020 (26251-100-M6-1T14-00020), Rev. 00A
 5. RG-BL-114-PRO-PID-00021 (26251-100-M6-1T14-00021), Rev. 00A
 6. RG-BL-114-PRO-PID-00022 (26251-100-M6-1T14-00022), Rev. 00A
 7. RG-BL-114-PRO-PID-00026 (26251-100-M6-1T14-00026), Rev. 00A
 8. RG-BL-114-PRO-PID-00029 (26251-100-M6-1T14-00029), Rev. 00A
 9. RG-BL-114-PRO-PID-00036 (26251-100-M6-1T14-00036), Rev. 00A
 10. RG-BL-114-PRO-PID-00041 (26251-100-M6-1T14-00041), Rev. 00A
 11. RG-BL-114-PRO-PID-00042 (26251-100-M6-1T14-00042), Rev. 00A
 12. RG-BL-114-PRO-PID-00043 (26251-100-M6-1T14-00043), Rev. 00A
 13. RG-BL-114-PRO-PID-00044 (26251-100-M6-1T14-00044), Rev. 00A
 14. RG-BL-114-PRO-PID-00045 (26251-100-M6-1T14-00045), Rev. 00A
- Attachment 3, APCI White Paper Clarification Email (dated 19 Jan 2023)

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334.000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 350,615
- 3) The Contract Price prior to this Change Order was \$ 3,042,684.615
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 7,609,062
- 7) The new Contract Price including this Change Order will be \$ 3,050,293.677

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00018_SCT30002 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00018_SCT30002 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not~~ constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order ~~upon the Change Criteria and~~ **shall not** be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Train 3**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00042)

(Contractor Change Number: SCT30003)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: REMOVE CRYOGENIC COATING**(PERLITE) ON LNG SPILL TRENCHES AND IMPOUNDMENT BASINS****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Eliminate cryogenic insulating coating from the LNG containment trenches as proposed via Contractor's RFI RG- BL-GRI-GAM-00057 (26251-100-GRI-GAM-00057) and RG-BL-GRI-GAM-00139 (26251-100-GRI-GAM-00139) and agreed to by Owner, therefore LNG containment trenches will no longer require a cryogenic coating and are to be made of normal weight concrete.

Attachments to support proposed Change Order:

- Attachment 1 – Request for Information - RG-BL-GRI-GAM-00057 (26251-100-GRI-GAM-00057)
- Attachment 2 – Request for Information - RG-BL-GRI-GAM-00139 (26251-100-GRI-GAM-00139)

Adjustment to Contract Price

- 1) The original Contract Price was \$3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 7,959,677
- 3) The Contract Price prior to this Change Order was \$ 3,050,293,677
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ [***]
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ (1,247,508)
- 7) The new Contract Price including this Change Order will be \$ 3,049,046,169

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00042_SCT30003 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00042_SCT30003 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 15, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

CHANGE ORDER NUMBER:

(Owner EC Number: EC00043)

(Contractor Change Number: SCT30004)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: SEAM WELDED PIPE

MINIMUM LINE SIZE REDUCED FROM 24 TO 16 INCHES

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Contractor shall perform all Work necessary to modify the piping system specifications and design to allow the use of seam-welded pipe for carbon steel and low-temperature carbon steel for sizes of 16 inches in diameter, or greater.

The pipe specifications to be updated are listed in Attachment 1 to this Change Order EC00043_SCT30004 Attachments to support this change:

- Attachment 1, Specifications Requiring Updates from Schedule A-2, Basis of Design, Appendix 5 – Reference Documents and Inputs
- Attachment 2, Request for Information; 26251-100-GRI-GAM-00094, Rev. 00R.

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 6,712,169
- 3) The Contract Price prior to this Change Order was \$ 3,049,046,169
- 4) The Aggregate Equipment Price will be **decreased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ ***
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **decreased** by this Change Order in the amount of \$ (310,263)
- 7) The new Contract Price including this Change Order will be \$ 3,048,735,906

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00043_SCT30004 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00043_SCT30004 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design:

See listing of specifications requiring updates provided in Attachment 1 to this Change Order EC00043_SCT30004.

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ ~~Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 15, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

CHANGE ORDER NUMBER:

(Owner EC Number: EC00008)

(Contractor Change Number: SCT30005)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: CHANGE TO SECTION 3.18 –

TIMING OF ITP APPROVALS

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

- Article 3.18 (Quality Assurance) of the Agreement shall be revised as indicated in the redline mark-up below.

3.18 Quality Assurance. No later than thirty (30) Days after the Original Effective Date, Contractor shall submit to Owner for its review and approval, not to be unreasonably withheld, a Facility-specific quality control and quality assurance plan and an inspection plan detailing Contractor's quality plan ("**Quality Plan**") and Subcontractor source inspection plan as required by Attachment Y. ~~No later than thirty (30) Days after the Original Effective Date,~~ Contractor shall submit to Owner for its approval, not to be unreasonably withheld, detailed inspection and test plans and supporting construction procedures as required by Attachment Y. Prior to the commencement of the Work related to each Train, detailed quality assurance and quality control procedures and plans applicable to that portion of the Work shall be issued to Owner in accordance with Attachment Y. No later than thirty (30) Days after issuance of NTP, Contractor shall re-submit to Owner for its review and approval, not to be unreasonably withheld, an updated Quality Plan ~~(including detailed inspection and test plans and supporting construction procedures as required by Attachment Y)~~. 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 such plans, Contractor agrees that it shall keep a daily record of inspections performed, and Contractor shall make available at the Site for Owner's and Lender's (including Independent Engineer) review a copy of all such inspections.

- Attachment Y (Quality Plan Requirements) of the Agreement; Section 5.2 Inspection and Test plans – The first paragraph shall be revised as indicated in the redline mark-up below.

Inspection and test plans ("ITPs") shall be prepared by Contractor for the Work. An ITP is a document which shall detail the required inspection points and test plans and supporting construction procedures for both the Contractor and Owner for each portion of the Work. Contractor shall submit each ITP ~~for~~ to Owner for approval ~~at least~~ at least ~~***~~ *** Days ~~after NTP~~ prior to commencement of associated activities.

Adjustment to Contract Price

- The original Contract Price was \$ 3,042,334,000
- Net change by previously authorized Change Orders (See Appendix 1) \$ 6,401,906
- The Contract Price prior to this Change Order was \$ 3,048,735,906
- The Aggregate Equipment Price will be **unchanged** by this Change Order

in the amount of \$ 0

- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- 7) The new Contract Price including this Change Order will be \$ 3,048,735.906

Adjustment to Key Dates

The following Key Dates are modified (list all Key Dates modified; insert N/A if no Key Dates modified) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00008_SCT30005 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00008_SCT30005 will be incorporated in Change Order EC00069 SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not~~ constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and ~~shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner
Alex Thompson
Name
Authorized Person
Title
July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor
Scott Osborne
Name
Senior Project Manager
Title
July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Train 3**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00004)

(Contractor Change Number: SCT30007)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: REVERT REFRIGERATION**COMPRESSORS TO TABLE TOPS****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor to revert refrigeration compressor design which included refrigeration compressors on tabletops with shelters and bridge cranes. Nozzles will revert to bottom entry from top entry.

The current basis of the refrigeration compressors at grade and without shelters or bridge cranes is per contract alternative A10 for which Owner received a \$[***] per train price reduction.

ITB change C68 which introduced a pipe rack on one side of the compressors instead of on each side is unaffected by this change.

Attachments to support this Change Order Form:

- Attachment 1, Schedule A-1, Exhibit A-2.3 Redline
- Attachment 2, Alternative C68

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 6,401,906
- 3) The Contract Price prior to this Change Order was \$ 3,048,735,906
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 47,678,991
- 7) The new Contract Price including this Change Order will be \$ 3,096,414,897

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00004_SCT30007 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00004_SCT30007 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
 Owner
Alex Thompson
 Name
Authorized Person
 Title
July 13, 2023
 Date of Signing

/s/ Scott Osborne
 Contractor
Scott Osborne
 Name
Senior Project Manager
 Title
July 13, 2023
 Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 15, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

CHANGE ORDER NUMBER:
(Owner EC Number: EC00006)
(Contractor Change Number: SCT3008)

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

EFFECTIVE DATE OF CHANGE ORDER:
July 13, 2023

TITLE: 3% PRODUCTION CAPACITY

INCREASE

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

[***]

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334.000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 54,080,897
- 3) The Contract Price prior to this Change Order was \$ 3,096,414.897
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ [***]
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 29,419,186
- 7) The new Contract Price including this Change Order will be \$ 3,125,834,083

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00006_SCT30008 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00006_SCT30008 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria:

[***]

Impact on Performance Guarantees:

[***]

Impact on Basis of Design: As described above. Impact on the Total Reimbursement

Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Train 3**CHANGE ORDER NUMBER:**

(Owner EC Number: EC00009)

(Contractor Change Number: SCT30009)

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: UPDATE CONTRACT**ATTACHMENT B, SCHEDULE B-1****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

- Schedule B-1 to the Agreement is deleted and replaced with Schedule B-1 (Rev. 1) attached hereto.

Attachments to support this Change Order Form:

- Attachment 1, Schedule B-1 (Rev 1) Outline of Owner Document Submittal Requirements for Review or Information

Adjustment to Contract Price

- The original Contract Price was \$ 3,042,334,000
- Net change by previously authorized Change Orders (See Appendix 1) \$ 83,500,083
- The Contract Price prior to this Change Order was \$ 3,125,834,083
- The Aggregate Equipment Price will be **unchanged** by this Change Order in the amount of \$ 0
- The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- The Total Aggregate Equipment, Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- The new Contract Price including this Change Order will be \$ 3,125,834,083

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A****Impact to other Changed Criteria** *(insert N/A if no changes or impact; attach additional documentation if necessary)*

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00009_SCT30009 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00009_SCT30009 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person
Title

July 13, 2023
Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager
Title

July 13, 2023
Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 15, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

CHANGE ORDER NUMBER:

(Owner EC Number: EC00044)

(Contractor Change Number: SCT30010)

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

July 13, 2023

TITLE: INCREASE SOME

HAZARDOUS LINE SIZES BASED ON UPATED PHAST MODELING

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

Select three (3)- and four (4) -inch lines and associated valves containing hazardous fluids are increased to six inches NPS to reduce the size of the postulated single accidental leakage source ("SALS") value as determined in accordance with PHMSA guidelines and as set forth herein. This as an Owner RFI NTD-BL-RFI-000028 initiated a vapor dispersion review associated with an updated Siting Analysis, and due to hydraulic limitations, 3- and 4-inch line and valve sizes were increase to 6 inches instead of being reduced to 2 inches. Line and valve changes are summarized in the attached Line and Valve Change Summary Table.

Attachments to support proposed change:

- Attachment 1, Owner RFI NTD-BL-RFI-000028
- Attachment 2, Line and Valve Change Summary Table

Adjustment to Contract Price

1. The original Contract Price was \$ 3,042,334.000
2. Net change by previously authorized Change Orders (See Appendix 1) \$ 83,500.083
3. The Contract Price prior to this Change Order was \$ 3,125,834.083
4. The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
5. The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
6. The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 316,716
7. The new Contract Price including this Change Order will be \$ 3,126,150.799

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00044_SCT30010 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00044_SCT30010 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not~~ be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Train 3**CHANGE ORDER NUMBER:**
(Owner EC Number: EC00046)
(Contractor Change Number: SCT30011)**OWNER:** Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 13, 2023

TITLE: EXTEND NITROGEN HEADER TO**TRAIN 3****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor shall perform all Work required to provide a second N2 header in Train 3 to be extended from the high- purity N2 header in Trains 1 and 2. This will add about 2,000 feet of 3-inch carbon steel piping. This high purity N2 header is to distribute high purity nitrogen for mixed refrigerant make-up.

Attachments to support proposed change:

- Attachment 1- Schedule A-1, Scope of Work, Section 14.3 Markup
- Attachment 2- Schedule A-1, Scope of Work, Section 14.4 Markup
- Attachment 3- Attachment V, Owner Furnished Items, Nos. 13 and 14 Markup

Adjustment to Contract Price

1. The original Contract Price was \$ 3,042,334.000
2. Net change by previously authorized Change Orders (See Appendix 1) \$ 83,816,799
3. The Contract Price prior to this Change Order was \$ 3,126,150,799
4. The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
5. The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
6. The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 607,323
7. The new Contract Price including this Change Order will be \$ 3,126,758,122

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.*(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)*

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00046_SCT30011 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00046_SCT30011 will be incorporated in Change Order EC00069_SCT30016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design:

No impact, but, for reference, the related Nitrogen system impacts are captured in Change Order for Trains 1 & 2 (Change Order EC00002_SC00016).

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement:

EPC Agreement – Attachment V, Owner Furnished Items shall be revised as indicated in Attachment 3 to this Change Order EC00046_SCT30011.

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 15, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

CHANGE ORDER NUMBER:

Owner EC Number: EC00071

Contractor Change Number: SCT3013

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

July 13, 2023

CONTRACTOR: Bechtel Energy Inc.

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

BACKGROUND

Contractor delivered to Owner the Pricing and Schedule Refresh #2 on August 31, 2022, having pricing for each of the Change Orders set forth in Schedule A-3 ("Schedule A-3 Change Orders"), each price being valid through December 15th, 2022.

The Parties executed the Schedule A-3 Change Orders on July 13, 2023 with the price and schedule defined in Pricing and Schedule Refresh #2. As the price of executed Schedule A-3 Change Orders have no escalation or market price adjustment for the period between December 15th, 2022 and July 13, 2023, the Parties agree to an aggregated Contract Price adjustment to incorporate escalation in Schedule A-3 Change Orders based on Contractor's letter to Owner (Rio Grande LNG Project – EPC Contracts -Validation Proposal) dated May 1st 2023 provided as Attachment 1.

CHANGE

Reference Contractor's letter to Owner (Rio Grande LNG Project – EPC Contracts -Validation Proposal), per Item #2 of the table of Section 2, which estimates the price validity changes at \$5,000,000, the Contract Price shall be adjusted by an increase of \$5,400,000 to capture a cumulative, total increase to Schedule A-3 Change Orders listed in Table 1 below.

Table 1 - Schedule A-3 Change Orders

Owner Change Number	Contractor Change Number	Description
EC00041	SCT3001	Clean agent fire suppression in substations per FEIS requirements
EC00018	SCT3002	APCI white paper changes - Parallel Compressor Guidelines - Control logic upgrades. Requirements for stable operation of the parallel strings.
EC00042	SCT3003	Remove Cryogenic Coating (Perlite) on LNG Spill Trenches and Impoundment Basins
EC00043	SCT3004	Seam Welded Pipe Minimum Line Size Reduced from 24 to 16 Inches
EC00008	SCT3005	Bechtel EPC Agreement change to Section 3.18 - timing of ITP approvals
EC00004	SCT3007	Revert Refrigeration Compressors to Table-Tops with Shelters and Cranes
EC00006	SCT3008	3% Production Capacity Increase
EC00009	SCT3009	Update contract attachment B (Schedule B-1)
EC00044	SCT3010	Increase some hazardous fluid line sizes based on updated PHAST modeling and resultant vapor dispersion
EC00046	SCT3011	Extend Nitrogen Header to Train 3

Attachments to support this Change Order Form:

Attachment 1 - Contractor's letter to Owner (Rio Grande LNG Project – EPC Contracts -Validation Proposal) dated May 1st 2023.

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 84,424,122
- 3) The Contract Price prior to this Change Order was \$ 3,126,758,122
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The Total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 5,400,000
- 7) The new Contract Price including this Change Order will be \$ 3,132,158,122

Adjustment to Key Dates

The following Key Dates are modified:

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00071_SCT3013 will be incorporated in Change Order EC00069_SCT3016.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00071_SCT3013 will be incorporated in Change Order EC00069_SCT3016.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] _____ Pursuant to Section 6.4 of the Agreement, this Change Order ~~shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and~~ shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey EPC Agreement of Train 3**CHANGE ORDER NUMBER:**

Owner EC Number: EC00065

Contractor Change Number: SCT3015

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

July 19, 2023

TITLE: NTP CONTRACT PRICE**ADJUSTMENT FOR FOREIGN CURRENCY****The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

[***]

Attachments to support this Change Order:

- Attachment 1 – Euro Exchange Rate; [***] – Bloomberg FX Fixings

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 89,824,122
- 3) The Contract Price prior to this Change Order was \$ 3,132,158,122
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ [***]
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ [***]
- 6) The total Aggregate Equipment, Labor and Skills price will be **increased** by this Change Order in the amount of \$ 13,806,474
- 7) The new Contract Price including this Change Order will be \$ 3,145,964,596

Adjustment to Key DatesThe following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.*(list all Key Dates that are modified by this Change Order using the format set forth above)*

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.
 The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.
(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones):

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00065_SCT3015 will be incorporated in Change Order EC00069_SCT3016 to be executed within one month after NTP.

Impact on Maximum Cumulative Payment Schedule:

All impacts to Attachment C – Payment Schedule resulting from this Change Order EC00065_SCT3015 will be incorporated in Change Order EC00069_SCT3016 to be executed within one month after NTP.

Impact on Minimum Acceptance Criteria: **N/A** Impact on Performance Guarantees:

N/A Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: The Total Reimbursement Amount is changed from \$26,397,022 to \$27,416,081, an incremental increase of \$1,019,059.

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

AGREEMENT: Amended and Restated Fixed Price Turnkey EPC Agreement of Train 3

OWNER: Rio Grande LNG, LLC

CONTRACTOR: Bechtel Energy Inc.

DATE OF AGREEMENT: September 15, 2022

CHANGE ORDER NUMBER:

Owner EC Number: EC00069 Contractor Change Number: SCT3016

EFFECTIVE DATE OF CHANGE ORDER:

August 11, 2023

TITLE: ATTACHMENT C UPDATE

BACKGROUND

Owner and Contractor executed Change Orders to the Agreement that deferred the changes to Attachment C. The changes to Attachment C from each of the Change Orders listed in Table 1 (Previously Executed Change Orders Requiring Incorporation into Attachment C) are to be incorporated into Attachment C as provided for in this Change Order EC00069_SCT3016.

Table 1 – Previously Executed Change Orders Requiring Incorporation into Attachment C

Owner Change Number	Contractor Change Number	Description
Section A - Change Orders Executed Prior to NTP		
EC00063 rev. 1	SCT3017 rev. 1	High Value Order True-Up (Category A – Virginia Transformers)
EC00089	SCT3023	High Value Order True-Up - Final
EC00096	SCT3024	Attachment KK Baseline Index Value Updates
Section B – Change Orders Executed Post-NTP and Included in Attachment A, Schedule A-3		
EC00041	SCT30001	Clean Agents Fire Suppression in Substations
EC00018	SCT30002	APCI White Paper Changes - Parallel Compressor Guidelines
EC00042	SCT30003	Remove Cryogenic Coating (Perlite) on LNG Spill Trenches and Impoundment Basins
EC00043	SCT30004	Seam Welded Pipe Minimum Line Size Reduced from 24 to 16 Inches
EC00008	SCT30005	Change to Section 3.18 - Timing of ITP Approvals
EC00004	SCT30007	Refrigeration Compressors to Table-Tops with Shelters and Cranes
EC00006	SCT30008	3% Production Capacity Increase
EC00009	SCT30009	Update Contract Attachment B, Schedule B-1
EC00044	SCT30010	Increase Some Hazardous Fluid Line Sizes Based on Updated PHAST Modeling
EC00046	SCT30011	Extend Nitrogen Header to Train 3
Section C – Change Orders Executed Post-NTP and Not Included in Attachment A, Schedule A-3		
EC00071	SCT3013	NTP Delay Escalation - A-3 Change Orders
EC00065	SCT3015	NTP Contract Price Adjustment for Foreign Currency

CHANGE

The EPC Agreement between the Parties listed above is changed as follows:

1. **First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)** – This appendix shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 1 to this Change Order.
2. **First Amended Attachment C, First Amended Schedule C-1 (Earned Value Contract Price Breakdown)** – This schedule shall be updated per the Schedule C-1 (Earned Value Contract Price Breakdown) as provided in Attachment 2 to this Change Order.
3. **First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)** – This schedule shall be updated per the Schedule C-2 (Payment Milestones) as provided in Attachment 3 to this Change Order.
4. **First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)** – This schedule shall be updated per the Schedule C-3 (Maximum Cumulative Payment Schedule) as provided in Attachment 4 to this Change Order.

Attachments to support this Change Order:

Attachment 1 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order
Attachment 2 – First Amended Schedule C-1 (Earned Value Contract Price Breakdown), as updated by this Change Order

Attachment 3 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order

Attachment 4 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 103,630,596
- 3) The Contract Price prior to this Change Order was \$ 3,145,964,596
- 4) The Aggregate Equipment Price will be **unchanged** by this Change Order in the amount of \$ 0
- 5) The Aggregate Labor and Skills Price will be **unchanged** by this Change Order in the amount of \$ 0
- 6) The total Aggregate Equipment, Labor and Skills price will be **unchanged** by this Change Order in the amount of \$ 0
- 7) The new Contract Price including this Change Order will be \$ 3,145,964,596

Adjustment to Key Dates

The following Key Dates are modified:

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria:

Impact on Payment Schedule (including, as applicable, Payment Milestones):

Updates to the First Amended Appendix 1 (Contract Price Breakdown), the First Amended Schedule C-1 (Earned Value Contract Price Breakdown), the First Amended Schedule C-2 (Payment Milestones), and the First Amended Schedule C-3 – (Maximum Cumulative Payment Schedule) are provided in the attachments to this Change Order EC00069_SCT3016.

Impact on Minimum Acceptance Criteria: N/A **Impact on Performance Guarantees:**

N/A Impact on Basis of Design: N/A

Impact on the Total Reimbursement Amount: N/A

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner
Alex Thompson

Name
Authorized Person

Title
July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor
Scott Osborne

Name
Senior Project Manager

Title
July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility**DATE OF AGREEMENT:** September 15, 2022**AGREEMENT:** Amended and Restated Fixed Price Turnkey Agreement for Train 3**CHANGE ORDER NUMBER:**

Owner EC Number: EC00061 Contractor Change Number SCT3012

OWNER: Rio Grande LNG, LLC**EFFECTIVE DATE OF CHANGE ORDER:****CONTRACTOR:** Bechtel Energy Inc.

September 22, 2023

TITLE: DESIGN OPTIMIZATIONS**The EPC Agreement between the Parties listed above is changed as follows:** *(attach additional documentation if necessary)*

Contractor shall perform all Work necessary to incorporate the following design optimizations to support future Facility expansions.

1. The following changes shall be made to the Equipment specified below in Train 3. (Refer to Change Orders EC00063_SCT3017 Rev. 1 and EC00089_SCT3023 – High Value Order True-up which captures the Equipment costs for items a) and b) below from Contractor's High Value Order EKL0-00001 to ABB and captures the Equipment cost for item c) below from Contractor's High Value Order ETP0-00001 to Virginia Transformers). All other Equipment costs are captured in this Change Order.
 - a) Train North Substation (3SS-8030)
Refer to Attachment 2 – Red-Line Mark-up of DWG RG-BL-000-ELE-SLD-00003; Overall One-Line Diagram Train 1 Substations and Attachment 3 – Red-Line Mark-up of DWG RG-BL-100-ELE- BPL-00001; Equipment Location Plan 1SS-8010 North Substation Train 1
 - Increase bus rating in 34.5kV switchgear from 2000A to 2500A.
 - Increase main breaker and tie breaker rating from 2000A to 2500A.
 - Provide 2 spare 34.5kV breakers in 35kV switchgear.
 - Reserve space for 480V Essential breaker feeders in essential MCC
 - b) Train South Substation (3SS-8035)
Refer to Attachment 2 – Red-Line Mark-up of DWG RG-BL-000-ELE-SLD-00003; Overall One-Line Diagram Train 1 Substations and Attachment 3 – Red-Line Mark-up of DWG RG-BL-100-ELE- BPL-00001; Equipment Location Plan 1SS-8010 North Substation Train 1
 - Reserve space for 480V Essential breaker feeders in essential MCC.
 - c) Increase the Train North 138/34.5kV transformer rating from 80/106.7MVA to 80/106.7/133MVA.
 - d) Provide additional 138kV and 35kV cable capacity to carry the load of the above increased switchgear rating.
2. Modify the orientation of Train 3 Thermal Oxidizer by rotating it 180 degrees.
3. Modify Train 3 sub-pipe rack foundation and steel design to allow for a potential future load based on data in the table below. Refer to Attachment 1 – Red-Line Mark-up of DWG RG-BL-100-PIP-PP-00001: Unit Plot Plan LNG Train 1.
4. [***]

5. First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown) shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 4 to this Change Order.
6. First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones) shall be updated per the C-2 Payment Milestones as indicated in Attachment 5 to this Change Order.
7. First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule) shall be updated per the Schedule C-3 as provided in Attachment 6 to this Change Order.

Attachments to support this Change Order:

- Attachment 1 – Red-Line Mark-up of DWG RG-BL-100-PIP-PP-00001: Unit Plot Plan LNG Train 1 (Typical. for Train 3)
- Attachment 2 – Red-Line Mark-up of DWG RG-BL-000-ELE-SLD-00003; Overall One-Line Diagram Train 1 Substations (Typical for Train 3)
- Attachment 3 – Red-Line Mark-up of DWG RG-BL-100-ELE-BPL-00001; Equipment Location Plan 1SS- 8010 North Substation Train 1 (Typical for Train 3)
- Attachment 4 –First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order
- Attachment 5 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order
- Attachment 6 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$ 3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 103,630,596
- 3) The Contract Price prior to this Change Order was \$ 3,145,964,596
- 4) The Aggregate Equipment Price will be **increased** by this Change Order in the amount of \$ ***
- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 1,639,000
- 7) The new Contract Price including this Change Order will be \$ 3,147,603,596

Adjustment to Key Dates

The following Key Dates are modified (*list all Key Dates modified; insert N/A if no Key Dates modified*) :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(*list all Key Dates that are modified by this Change Order using the format set forth above*)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(*list all Guaranteed Dates that are modified by this Change Order using the format set forth above*)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria (*insert N/A if no changes or impact; attach additional documentation if necessary*)

Impact on Payment Schedule (including, as applicable, Payment Milestones):

The Schedule C-2 (Payment Milestones) is updated as provided in Attachment 5.

Impact on Maximum Cumulative Payment Schedule:

The Schedule C-3 (Maximum Cumulative Payment Schedule) is updated as provided in Attachment 6. Impact on Minimum Acceptance

Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **N/A**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson

Owner

Alex Thompson

Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne

Contractor

Scott Osborne

Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

CHANGE ORDER

(for use when the Parties mutually agree upon and execute the Change Order pursuant to Section 6.1D or 6.2C)

PROJECT NAME: Rio Grande Natural Gas Liquefaction Facility

DATE OF AGREEMENT: September 15, 2022

AGREEMENT: Amended and Restated Fixed Price Turnkey Agreement for Train 3

CHANGE ORDER NUMBER:

Owner EC Number: EC00075 Contractor Change Number SCT3022

OWNER: Rio Grande LNG, LLC

EFFECTIVE DATE OF CHANGE ORDER:

CONTRACTOR: Bechtel Energy Inc.

December 11, 2023

TITLE: ADDITION OF BOG CONTROL

VALVE

The EPC Agreement between the Parties listed above is changed as follows: *(attach additional documentation if necessary)*

BACKGROUND

A flow control valve shall be added as shown in Attachment 2 to this Change Order within the battery isolation limits for Train 3 on the boil-off gas supply line to the HP fuel gas system to allow for controlled distribution of boil-off gas into Train 3.

CHANGE

1. **Attachment A, Schedule A-2 (Basis of Design)**; shall be modified as follows:
 - a. **Section 10.2.6 – BOG System**; shall be updated per the red-line mark-up as provided in Attachment 1 to this Change Order.
2. **First Amended Attachment C, First Amended Appendix 1 (Contract Price Breakdown)**; shall be updated per the Appendix 1 (Contract Price Breakdown) as provided in Attachment 3 to this Change Order.
3. **First Amended Attachment C, First Amended Schedule C-2 (Payment Milestones)**; shall be updated per the C-2 Payment Milestones as provided in Attachment 4 to this Change Order.
4. **First Amended Attachment C, First Amended Schedule C-3 (Maximum Cumulative Payment Schedule)**; shall be updated per the Schedule C-3 as provided in Attachment 5 to this Change Order.

Attachments to support this Change Order:

- Attachment 1 – Attachment A, Schedule A-2 (Basis of Design), Red-Line Mark-Up of Section 10.2.6
- Attachment 2 – Boil Off Gas Control Valve Addition
- Attachment 3 – First Amended Appendix 1 (Contract Price Breakdown), as updated by this Change Order
- Attachment 4 – First Amended Schedule C-2 (Payment Milestones), as updated by this Change Order
- Attachment 5 – First Amended Schedule C-3 (Maximum Cumulative Payment Schedule), as updated by this Change Order

Adjustment to Contract Price

- 1) The original Contract Price was \$3,042,334,000
- 2) Net change by previously authorized Change Orders (See Appendix 1) \$ 105,269,596
- 3) The Contract Price prior to this Change Order was \$ 3,147,603,596
- 4) The Aggregate Equipment Price will be **increased** by this Change Order

in the amount of \$ ***

- 5) The Aggregate Labor and Skills Price will be **increased** by this Change Order in the amount of \$ ***
- 6) The total Aggregate Equipment, Labor and Skills Price will be **increased** by this Change Order in the amount of \$ 161,400
- 7) The new Contract Price including this Change Order will be \$ 3,147,764,996

Adjustment to Key Dates

The following Key Dates are modified *(list all Key Dates modified; insert N/A if no Key Dates modified)* :

The Key Date for **N/A** will be (increased)(decreased) by **N/A** Days.

The Key Date for **N/A** as of the date of this Change Order therefore is **N/A** Days after NTP.

(list all Key Dates that are modified by this Change Order using the format set forth above)

The Guaranteed Date of **N/A** will be (increased)(decreased) by **N/A** Days.

The Guaranteed Date of **N/A** as of the effective date of this Change Order therefore is **N/A** Days after NTP.

(list all Guaranteed Dates that are modified by this Change Order using the format set forth above)

Attached to this Change Order is an updated Schedule E-1 which shall reflect and highlight any adjustment(s) to the Key Dates agreed to in this Change Order. **N/A**

Impact to other Changed Criteria *(insert N/A if no changes or impact; attach additional documentation if necessary)*

Impact on Payment Schedule (including, as applicable, Payment Milestones): The Schedule C-2 (Payment

Milestones) is updated as provided in Attachment 4. **Impact on Maximum Cumulative Payment Schedule:**

The Schedule C-3 (Maximum Cumulative Payment Schedule) is updated as provided in Attachment 5. Impact on Minimum Acceptance

Criteria: **N/A**

Impact on Performance Guarantees: **N/A**

Impact on Basis of Design: **As reflected in Attachment 1 to this Change Order**

Impact on the Total Reimbursement Amount: **N/A**

Any other impacts to obligation or potential liability of Contractor or Owner under the EPC Agreement: **N/A**

[A] This Change Order **shall** constitute a full and final settlement and accord and satisfaction of all effects of the changes reflected in this Change Order upon the Change Criteria and **shall** be deemed to compensate Contractor fully for such change. Initials: SFO Contractor AT Owner

[B] ~~_____ Pursuant to Section 6.4 of the Agreement, this Change Order shall not constitute a full and final settlement and accord and satisfaction of all effects of the change reflected in this Change Order upon the Change Criteria and shall not be deemed to compensate Contractor fully for such change. Initials: Contractor Owner~~

Upon execution of this Change Order by Owner and Contractor, the above-referenced change shall become a valid and binding part of the Amended and Restated EPC Agreement without exception or qualification. Except as modified by this and any previously issued Change Orders or any amendments to the EPC Agreement, all other terms and conditions of the EPC Agreement shall remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. This Change Order represents full and final consideration and/or adjustments for the above change, except as set out above.

/s/ Alex Thompson
Owner

Alex Thompson
Name

Authorized Person

Title

July 13, 2023

Date of Signing

/s/ Scott Osborne
Contractor

Scott Osborne
Name

Senior Project Manager

Title

July 13, 2023

Date of Signing

Subsidiary Name	State of Incorporation
NextDecade LNG, LLC	Delaware
NEXT Carbon Solutions, LLC	Texas
Rio Grande LNG Gas Supply LLC	Delaware
Rio Grande LNG Gas Marketing LLC	Delaware
Rio Grande LNG Super Holdings, LLC	Delaware
Rio Grande LNG Intermediate Super Holdings, LLC	Delaware
Rio Grande Intermediate Holdings, LLC	Delaware
Rio Grande LNG Holdings, LLC	Delaware
Rio Grande LNG, LLC	Texas

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated March 11, 2024, with respect to the consolidated financial statements included in the Annual Report of NextDecade Corporation on Form 10-K for the year ended December 31, 2023. We consent to the incorporation by reference of said report in the Registration Statements of NextDecade Corporation on Forms S-1 (File No. 333-267680, File No. 333-265827, File No. 333-265115 and File No. 333-261021), on Forms S-3 (File No. 333-254781) and on Forms S-8 (File No. 333-265829, File No. 333-257928, File No. 333-254761, File No. 333-234596 and File No. 333-222082).

/s/ GRANT THORNTON LLP

Houston, TX

March 11, 2024

CERTIFICATIONS

I, Matthew K. Schatzman, certify that:

1. I have reviewed this Annual Report on Form 10-K of NextDecade Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 11, 2024

/s/ Matthew K. Schatzman

Matthew K. Schatzman

Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATIONS

I, Brent E. Wahl, certify that:

1. I have reviewed this Annual Report on Form 10-K of NextDecade Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 11, 2024

/s/ Brent E. Wahl

Brent E. Wahl

Chief Financial Officer

(Principal Financial Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Matthew K. Schatzman, Chairman of the Board and Chief Executive Officer of NextDecade Corporation (the "Company"), hereby certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Annual Report on Form 10-K of the Company for the fiscal year ended December 31, 2023 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

March 11, 2024

/s/ Matthew K. Schatzman

Matthew K. Schatzman

Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Brent E. Wahl, Chief Financial Officer of NextDecade Corporation (the "Company"), hereby certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Annual Report on Form 10-K of the Company for the fiscal year ended December 31, 2023 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

March 11, 2024

/s/ Brent E. Wahl

Brent E. Wahl

Chief Financial Officer

(Principal Financial Officer)

NEXTDECADE CORPORATION
INCENTIVE-BASED COMPENSATION RECOVERY POLICY
EFFECTIVE OCTOBER 2, 2023

1. Policy Overview and Purpose. In accordance with the applicable rules of The Nasdaq Stock Market LLC, Section 10D and Rule 10D-1 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") ("Rule 10D-1"), the Board of Directors (the "Board") of NextDecade Corporation (the "Company") has adopted this Policy (the "Policy") to enable the Company to recover Erroneously Awarded Compensation in the event that the Company is required to prepare an Accounting Restatement. This Policy is intended to comply with the requirements set forth in Listing Rule 5608 of The Nasdaq Stock Market LLC (the "Listing Rule") and shall be construed and interpreted in accordance with such intent. Unless otherwise defined in this Policy, capitalized terms shall have the meaning ascribed to such terms in Section 7.
 2. Policy Administration. This Policy shall be administered by the Compensation Committee of the Board (the "Committee"), unless the Board determines to administer this Policy itself. The Committee has full and final authority to make all determinations under this Policy, in each case to the extent permitted under the Listing Rule and in compliance with (or pursuant to an exemption from the application of) Section 409A of the Code. All determinations and decisions made by the Committee pursuant to the provisions of this Policy shall be final, conclusive and binding on all persons, including the Company, its affiliates, its stockholders and Executive Officers. Any action or inaction by the Committee with respect to an Executive Officer under this Policy in no way limits the Committee's actions or decisions not to act with respect to any other Executive Officer under this Policy or under any similar policy, agreement or arrangement, nor shall any such action or inaction serve as a waiver of any rights the Company may have against any Executive Officer other than as set forth in this Policy.
 3. Policy Application. This Policy applies to all Incentive-Based Compensation received by a person: (a) on or after the effective date of the Listing Rule, (b) after beginning service as an Executive Officer; (c) who served as an Executive Officer at any time during the performance period for such Incentive-Based Compensation; (d) while the Company had a class of securities listed on a national securities exchange or a national securities association; and (e) during the three completed fiscal years immediately preceding the Accounting Restatement Date. In addition to such last three completed fiscal years, the immediately preceding clause (e) includes any transition period that results from a change in the Company's fiscal year within or immediately following such three completed fiscal years; provided, however, that a transition period between the last day of the Company's previous fiscal year end and the first day of its new fiscal year that comprises a period of nine to twelve months shall be deemed a completed fiscal year. For purposes of this Section 3, Incentive-Based Compensation is deemed received in the Company's fiscal period during which the Financial Reporting Measure specified in the Incentive-Based Compensation award is attained, even if the payment or grant of the Incentive-Based Compensation occurs after the end of that period. For the avoidance of doubt, Incentive-Based Compensation that is subject to both a Financial Reporting Measure vesting condition and a service-based vesting condition shall be considered received when the relevant Financial Reporting Measure is achieved, even if the Incentive-Based Compensation continues to be subject to the service-based vesting condition.
 4. Policy Recovery Requirement. In the event of an Accounting Restatement, the Company must recover, reasonably promptly, Erroneously Awarded Compensation, in amounts determined pursuant to this Policy. The Company's obligation to recover Erroneously Awarded Compensation is not dependent on if or when the Company files restated financial statements. Recovery under this Policy with respect to an Executive Officer shall not require the finding of any misconduct by such Executive Officer or such Executive Officer being found responsible for the accounting error leading to an Accounting Restatement. In the event of an Accounting Restatement, the Company shall satisfy the Company's obligations under this Policy to recover any amount owed from any applicable Executive Officer by exercising its sole and absolute discretion in how to accomplish such recovery, to the extent permitted under the Listing Rule and in compliance with (or pursuant to an exemption from the application of)
-

Section 409A of the Code. The Company's recovery obligation pursuant to this Section 4 shall not apply to the extent that the Committee, or in the absence of the Committee, a majority of the independent directors serving on the Board, determines that such recovery would be impracticable and:

- a. The direct expense paid to a third party to assist in enforcing this Policy would exceed the amount to be recovered. Before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation based on expense of enforcement, the Company must make a reasonable attempt to recover such Erroneously Awarded Compensation, document such reasonable attempt(s) to recover, and provide that documentation to the Stock Exchange; or
- b. Recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the registrant, to fail to meet the requirements of Section 401(a)(13) or Section 411(a) of the Code.

To the extent that an Executive Officer fails to repay all Erroneously Awarded Compensation to the Company when due, the Company shall take all actions reasonable and appropriate to recover such Erroneously Awarded Compensation from the applicable Executive Officer. The applicable Executive Officer shall be required to reimburse the Company for any and all expenses reasonably incurred (including legal fees) by the Company in recovering such Erroneously Awarded Compensation in accordance with the immediately preceding sentence.

- 5 . Policy Prohibition on Indemnification and Insurance Reimbursement. The Company is prohibited from indemnifying any Executive Officer or former Executive Officer against the loss of Erroneously Awarded Compensation. Further, the Company is prohibited from paying or reimbursing an Executive Officer for purchasing insurance to cover any such loss.
- 6 . Required Policy-Related Filings. The Company shall file all disclosures with respect to this Policy in accordance with the requirements of the federal securities laws, including disclosures required by U.S. Securities and Exchange Commission filings.
7. Definitions.
 - a. "Accounting Restatement" means an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period.
 - b. "Accounting Restatement Date" means the earlier to occur of: (i) the date the Board, a committee of the Board, or the officer or officers of the Company authorized to take such action if the Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement; and (ii) the date a court, regulator, or other legally authorized body directs the Company to prepare an Accounting Restatement.
 - c. "Board" means the board of directors of the Company.
 - d. "Code" means the U.S. Internal Revenue Code of 1986, as amended. Any reference to a section of the Code or regulation thereunder includes such section or regulation, any valid regulation or other official guidance promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing, or superseding such section or regulation.
 - e. "Erroneously Awarded Compensation" means, in the event of an Accounting Restatement, the amount of Incentive-Based Compensation previously received that exceeds the amount of Incentive-Based Compensation that otherwise would have been received had it been determined based on the restated amounts in such Accounting Restatement, and must be

computed without regard to any taxes paid by the relevant Executive Officer; provided, however, that for Incentive-Based Compensation based on stock price or total stockholder return, where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in an Accounting Restatement: (i) the amount of Erroneously Awarded Compensation must be based on a reasonable estimate of the effect of the Accounting Restatement on the stock price or total stockholder return upon which the Incentive-Based Compensation was received; and (ii) the Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Stock Exchange.

- f. "Executive Officer" means the Company's president, principal financial officer, principal accounting officer (or if there is no such accounting officer, the controller), any vice-president of the Company in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company. An executive officer of the Company's parent or subsidiary is deemed an "Executive Officer" if the executive officer performs such policy making functions for the Company.
- g. "Financial Reporting Measure" means any measure that is determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measure that is derived wholly or in part from such measure; provided, however, that a Financial Reporting Measure is not required to be presented within the Company's financial statements or included in a filing with the U.S. Securities and Exchange Commission to qualify as a "Financial Reporting Measure." For purposes of this Policy, "Financial Reporting Measure" includes, but is not limited to, stock price and total stockholder return.
- h. "Incentive-Based Compensation" means any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a Financial Reporting Measure.
- i. "Stock Exchange" means The Nasdaq Stock Market LLC or any other national stock exchange on which the Company's common stock is listed.

- 8. Acknowledgement. Each Executive Officer shall sign and return to the Company, within 30 calendar days following the later of (i) the effective date of this Policy first set forth above or (ii) the date the individual becomes an Executive Officer, the Acknowledgment Form attached hereto as Exhibit A, pursuant to which the Executive Officer agrees to be bound by, and to comply with, the terms and conditions of this Policy.
- 9. Severability. The provisions in this Policy are intended to be applied to the fullest extent of the law. To the extent that any provision of this Policy is found to be unenforceable or invalid under any applicable law, such provision shall be applied to the maximum extent permitted, and shall automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to any limitations required under applicable law.
- 10. Amendment; Termination. The Board may amend this Policy from time to time in its sole and absolute discretion and shall amend this Policy as it deems necessary to reflect the Listing Rule or to comply with (or maintain an exemption from the application of) Section 409A of the Code. The Board may terminate this Policy at any time, provided that no termination of this Policy shall be effective if it would cause the Company to violate any federal securities laws or rule of the Securities and Exchange Commission or the Stock Exchange.
- 11. Other Recovery Obligations; General Rights. To the extent that the application of this Policy would provide for recovery of Incentive-Based Compensation that the Company recovers pursuant to Section 304 of the Sarbanes-Oxley Act or other recovery obligations, the amount the relevant Executive Officer has already reimbursed the Company will be credited to the required recovery under this Policy. This Policy shall not limit the rights of the Company to take any other actions or pursue other remedies that the Company may deem appropriate under the circumstances and under applicable law, in each case to

the extent permitted under the Listing Rule and in compliance with (or pursuant to an exemption from the application of) Section 409A of the Code. Nothing contained in this Policy shall limit the Company's ability to seek recoupment, in appropriate circumstances (including circumstances beyond the scope of this Policy) and as permitted by applicable law, of any amounts from any individual, in each case to the extent permitted under the Listing Rule and in compliance with (or pursuant to an exemption from the application of) Section 409A of the Code.

12. Successors. This Policy is binding and enforceable against all Executive Officers and their beneficiaries, heirs, executors, administrators or other legal representatives.
13. Governing Law; Venue. This Policy and all rights and obligations hereunder are governed by and construed in accordance with the internal laws of the State of Delaware, excluding any choice of law rules or principles that may direct the application of the laws of another jurisdiction. All actions arising out of or relating to this Policy shall be heard and determined exclusively in the Court of Chancery of the State of Delaware or, if such court declines to exercise jurisdiction or if subject matter jurisdiction over the matter that is the subject of any such legal action or proceeding is vested exclusively in the U.S. federal courts, the U.S. District Court for the District of Delaware.

EXHIBIT A

NEXTDECADE CORPORATION

INCENTIVE-BASED COMPENSATION RECOVERY POLICY

ACKNOWLEDGMENT FORM

By signing below, the undersigned acknowledges and confirms that the undersigned has received and reviewed a copy of the NextDecade Corporation (the "Company") Incentive-Based Compensation Recovery Policy (the "Policy").

By signing this Acknowledgement Form, the undersigned acknowledges and agrees that the undersigned is and will continue to be subject to the Policy and that the Policy will apply both during and after the undersigned's employment with the Company. Further, by signing below, the undersigned agrees to abide by the terms of the Policy, including, without limitation, by returning any Erroneously Awarded Compensation (as defined in the Policy) to the Company to the extent required by, and in a manner consistent with, the Policy.

EXECUTIVE OFFICER

Signature

Print Name

Date