



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN

P.O. BOX 2977 · AGANA, GUAM U.S.A. 96932-2977

May 11, 2018

AMENDMENT NO.: VII

TO

INVITATION FOR MULTI-STEP BID NO.: GPA-008-18

FOR

SUPPLY OF DIESEL FUEL OIL NO. 2

Prospective Bidders are hereby notified of the following changes:

CHANGES:

1. Change in Table 1, Bid Milestone:

Bid Process Milestones		From	To
Bid Announcement		11/16/2017	01/16/2018
Pre-Bid Conference (Non-mandatory)		11/30/2017 (10:00 am)	
Site Visit (Non-mandatory)		11/30/2017 (1:30 pm)	
Submit Questions		11/16/2017	06/08/2018
Cut Off Date for Receipt of Questions		06/08/2018	
GPA Review and Answer Questions		11/16/2017	06/20/2018
Vendor Prepare Bids		11/16/2017	07/06/2018
Cut Off Date for Receipt of Proposals (Technical and Price Proposals)		07/06/2018 2:00 P.M. Guam Time	
EVALUATION Step One:	Technical Proposal (Bid) Evaluation	07/09/2018	07/13/2018
	Notify Qualified Bidders	07/16/2018	07/20/2018
Price Proposal Opening		08/06/2018 2:00 PM Guam Time	
EVALUATION Step Two:	Price Proposal Evaluation	08/07/2018	08/10/2018
Approvals		TBD	
Notice of Intent to Award		TBD	
Contract Signing		TBD	
Contract Mobilization		TBD	
Contract Commencement		01/01/2019	

2. **VOLUME II – CONTRACT**

Section 20. ALTERNATE SUPPLY

Delete in its entirety and replace with:

“**CONTRACTOR** reserves the right to supply Fuel Oil meeting **GPA** specifications from any alternate source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in [Section 4](#) above.

CONTRACTOR must provide **GPA** at least five (5) days prior notice of its inability to supply and/or deliver fuel to **GPA**.

In the event **CONTRACTOR** is unable to fulfill **GPA**'s needs under this Contract as a result of [Section 16](#), supra, or if there is a sudden, unexpected increase in fuel demand that **CONTRACTOR** will be unable to supply and/or deliver fuel at the time needed, **CONTRACTOR** shall seek an alternative source for the supply and/or delivery of fuel oil so long as such condition shall exist.”

INSERT AFTER SCHEDULE C:

“**SCHEDULE D: SUBLEASE AGREEMENT**

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (hereinafter referred to as “**SUBLEASE**”) is made and entered into as of the ____ day of _____, 2019 (the “Effective Date”), by and between the **GUAM POWER AUTHORITY** (hereinafter referred to as “**GPA**”), and _____, (hereinafter referred to as “**CONTRACTOR**”). **GPA** is the lessee for the Storage Lease Agreement under TTGI-SA-2018-001, dated January 1, 2018, (hereinafter referred to as “**MASTER LEASE AGREEMENT**”), from Tristar Terminals Guam, Inc (hereinafter referred to as “**OWNER**”) for the lease of Storage Tank 1906 (hereinafter referred to as “**LEASED PREMISES**”) located at Agat, Guam.

WITNESSETH:

1. LEASED PREMISES

1.01. LEASED PREMISES.

- (a) **GPA** hereby leases to **CONTRACTOR**, and **CONTRACTOR** hereby leases from **GPA**, storage tank located at Tristar Storage FACILITY (hereinafter referred the “**FACILITY**”). Storage tank 1906 hereby leased to **CONTRACTOR** is depicted and designated as “**LEASED PREMISES**”, with a safe storage capacity of One Hundred Ninety-Six Thousand Barrels (196,000 bbls) and shall be utilized for storage of Diesel Fuel Oil No.2.
- (b) Monthly storage lease fee shall be waived by **GPA**. **CONTRACTOR** shall be solely responsible for all other expenses under this **SUBLEASE**, to include, but not limited to, dock fees, pipeline fees, and TriStar administrative fees (if overtime is incurred).
- (c) **CONTRACTOR** shall oversee, manage and administer the **LEASED PREMISES** and terms of this **SUBLEASE**.

1.02. Use Rights of OWNER and GPA.

OWNER and GPA may from time to time, in coordination with **CONTRACTOR**, shall be allowed to use the tank, and grant to any party, person or entity the non-exclusive right, to the extent permitted under this **SUBLEASE**.

1.03. MASTER LEASE AGREEMENT.

GPA is the Customer under the **MASTER LEASE AGREEMENT** with the **OWNER** identified above. **GPA** represents and warrants to **CONTRACTOR** that:

- (a) **GPA** has delivered to **CONTRACTOR** a full and complete copy of the **MASTER LEASE AGREEMENT** and all other agreements between **OWNER** and **GPA** relating to the leasing and use of the **LEASED PREMISES**;
- (b) the **MASTER LEASE AGREEMENT** is, as of the date hereof, in full force and effect; and
- (c) no event of default has occurred under the **MASTER LEASE AGREEMENT** and, to **GPA's** knowledge, no event has occurred and is continuing which would constitute an event of default but for the requirement of the giving of notice and/or the expiration of the period of time to cure.

2. LEASE TERM

2.01. Term.

The "Commencement Date" of the Lease shall be January 01, 2019 and shall continue until the termination of the **MASTER LEASE AGREEMENT** or **GPA's** Fuel Supply Contract with the **CONTRACTOR**, whichever occurs first.

3. USE OF LEASED STORAGE FACILITY

3.01. Permissible Use and Restrictions.

- (a) The **LEASED PREMISES** shall be continuously used solely for Diesel Fuel Oil No.2 storage and for no other purpose without **OWNER** and **GPA's** prior written consent during the term of the lease.
- (b) Scheduling. **GPA** and **CONTRACTOR** desire to optimize use of the **LEASED PREMISES**, and so agree to cooperate and communicate regarding scheduling of the **FACILITY**. **CONTRACTOR** shall manage the inventory and be responsible for scheduling and booking of fuel shipments to the **LEASED PREMISES**, but shall share with **GPA** not less frequently than on a monthly basis the proposed shipment schedule 18 months into the future. **GPA's** goal is to optimize use of the **FACILITY**.

3.02. Rules and Regulations.

CONTRACTOR shall comply with the rules and regulations adopted by **OWNER** of the **FACILITY**. **OWNER** shall have the right at all times to change and amend the rules

and regulations in any reasonable manner as it may deem advisable for safety, care, cleanliness, preservation of good order and operation or use of the **FACILITY**.

3.03. Hazardous Substances.

CONTRACTOR shall not place or use tanks, drums or other containers of any kind in, on, at or under the **LEASED PREMISES**, the contents of which are unknown to **OWNER** or **GPA**. **CONTRACTOR** shall not engage in any activities involving the use, treatment, transportation, generation, storage or disposal of any Hazardous Substances (as hereinafter defined) in hazardous quantities and no Hazardous Substances in hazardous quantities shall be released on, at or from the **LEASED PREMISES** or elsewhere in the **FACILITY**.

CONTRACTOR shall indemnify, defend, and hold harmless **OWNER** and **GPA** from and against:

- (a) any loss, cost, expense, claim, or liability arising out of any investigation, monitoring, clean-up, containment, removal, storage, or restoration work (herein referred to as "Remedial Work") required by, or incurred by, **OWNER** or **GPA** or any other person or party in a reasonable belief that such Remedial Work is required by any applicable federal, state or local law, rule, regulation or order, or by any governmental agency, authority, or political subdivision having jurisdiction over the **LEASED PREMISES** as a result of or arising from the use or occupancy by **CONTRACTOR** or its agents, employees, or invitees of the **LEASED PREMISES**, and
- (b) any claims of third parties for loss, injury, expense, or damage arising out of the presence, release, or discharge of any Hazardous Substances on, under, in, above, to or from the **LEASED PREMISES** as a result of or arising from the use or occupancy by **CONTRACTOR** or its agents, employees, or invitees of the **LEASED PREMISES**.

3.04. Hold Harmless.

OWNER and **GPA** shall not be liable to **CONTRACTOR** or to **CONTRACTOR**'s customers, employees, agents, guests or invitees, or to any other person whomsoever, for any injury to person or damage to property on or about the **LEASED PREMISES** or the **FACILITY**, including, but not limited to, consequential damage:

- (1) caused by any act or omission of **CONTRACTOR**, its employees, subcontractors, licensees, invitees and concessionaires invited by **CONTRACTOR** or of any other person entering the **FACILITY** or the **LEASED PREMISES** by express or implied invitation of **CONTRACTOR**; or
- (2) arising out of the use of the **LEASED PREMISES** or the **FACILITY** by **CONTRACTOR**, its employees, subcontractors, licensees, concessionaires invited by **CONTRACTOR** or invitees. **CONTRACTOR** hereby agrees to indemnify and hold **OWNER** and **GPA** harmless from any liability, loss, expense or claim (including, but not limited to, attorneys' fees) arising out of any such damage or injury. **OWNER** and **GPA** shall not be liable to **CONTRACTOR** for any loss or damage that may be occasioned by or through the acts or omissions of other **CONTRACTOR**s of the **FACILITY** or of any other persons whomsoever. Further, any **CONTRACTOR** specifically agrees to be responsible for and indemnify and hold **OWNER** and **GPA**

harmless from any and all damages or expenses of whatever kind arising out of or caused by a burglary, theft, vandalism, malicious mischief or other illegal acts performed in, at or from the **LEASED PREMISES**. **CONTRACTOR**'s obligations under this Section shall survive the expiration or earlier termination of this Lease.

4. **MAINTENANCE AND ALTERATIONS**

4.01. **OWNER's Obligations.**

OWNER shall keep in good repair, operate and maintain the **LEASED PREMISES**.

4.02. **CONTRACTOR's Obligations.**

CONTRACTOR shall not suffer or permit any injury to the **LEASED PREMISES**. **CONTRACTOR** shall immediately notify **GPA** of any damage, injury, or disrepair of any part of the **LEASED PREMISES** caused by or known to **CONTRACTOR**.

4.03. **Alterations and Additions.**

CONTRACTOR shall make no alterations or additions to any part of the **LEASED PREMISES**.

5. **INDEMNIFICATION AND INSURANCE**

5.01. **Indemnification.**

CONTRACTOR assumes all risks and responsibilities for accidents, injuries, or damages to persons or property (other than as provided in Section 5.02 below with respect to damage by fire and casualty), and agrees to indemnify and hold harmless **GPA** from any and all claims, liabilities, losses, costs, and expenses (including attorneys' fees), arising from or in connection with **CONTRACTOR**'s use of the **LEASED PREMISES** during the Lease Term.

5.02. **CONTRACTOR Insurance.**

CONTRACTOR shall, during the Lease Term, keep in full force and effect policies of public liability insurance (with contractual liability endorsement covering the matters set forth in Section 5.01 above), in companies and in a form acceptable to **OWNER** and **GPA**, with respect to the **LEASED PREMISES**, in which both **CONTRACTOR** and **GPA** shall be named as parties covered thereby (covering **CONTRACTOR** as the named insured and identifying **OWNER** and **GPA** as an "additional insured"), providing for insurance and minimum limits provided under Section 11 of the **MASTER LEASE AGREEMENT**. All insurance maintained by **CONTRACTOR** as required pursuant to this Section shall be carried in favor of **OWNER**, **GPA** and **CONTRACTOR**, as their respective interests may appear. **CONTRACTOR** shall furnish **OWNER** and **GPA** with certificates of insurance, and all such insurance shall carry a provision providing that it will not be subject to cancellation, termination, or change except after at least thirty (30) days prior written notice to **GPA**. If **CONTRACTOR** fails to comply with the above requirements, **GPA** may obtain such insurance and keep same in effect, and **CONTRACTOR** shall pay **GPA** all premium costs thereof upon demand.

5.03. Waiver of Subrogation.

All insurance policies maintained by **CONTRACTOR** as provided in this Article shall contain an agreement by the insurer waiving the insurer's right of subrogation against the other party to this Lease or agreeing not to acquire any rights of recovery which the insured has expressly waived prior to loss. Each of the parties hereto agrees that if the provision waiving subrogation in any of such policies of insurance requires that notice of such waiver be served upon the insurer, such notice shall be promptly served by the party obtaining such insurance.

6. DEFAULT AND REMEDIES

6.01. Events of Default.

Each of the following shall be deemed a default by **CONTRACTOR** unless the same has been cured within sixty (60) calendar days following the default:

- (a) **CONTRACTOR's** failure to perform or observe any other terms, conditions, or covenants of this Lease to be performed or observed by **CONTRACTOR**;
- (b) Any change or modification in the use of the **LEASED PREMISES** or any substantial change in the quality of character of such use if such change adversely affects the **FACILITY** to be solely determined by **OWNER**;
- (c) The adjudication of **CONTRACTOR** as a bankrupt;
- (d) The making by **CONTRACTOR** of a general assignment for the benefit of creditors;
- (e) The appointment of a receiver in equity for **CONTRACTOR's** property if such appointment is not vacated or otherwise terminated within sixty (60) days from the date of such appointment;
- (f) **CONTRACTOR's** filing of a voluntary petition in bankruptcy or for reorganization or arrangement;
- (g) **CONTRACTOR's** filing of an answer admitting bankruptcy or agreeing to reorganization or arrangement;
- (h) Issuance of a criminal indictment or charge against **CONTRACTOR**; or
- (i) Dissolution or other termination of **CONTRACTOR's** corporate charter.

6.02. OWNER and GPA's Rights Upon CONTRACTOR's Default.

In the event of any default provided in the foregoing Section 6.01, not cured within the applicable cure period, without any further demand or notice **GPA**, in addition to pursuing any other rights or remedies available at law or in equity, may:

- (a) Collect the past due amounts by withdrawing such amount from the **CONTRACTOR**;

- (b) Elect to terminate this Lease;
- (c) In the event that **CONTRACTOR** has failed to perform any of its covenants under this Lease to perform the covenant or covenants of **CONTRACTOR** which are in default at **CONTRACTOR**'s cost and expense (entering upon the **LEASED PREMISES** for such purpose, if necessary); and **GPA**'s performance of any such covenant shall neither subject **OWNER** and **GPA** to liability for any loss, inconvenience, or damage to **CONTRACTOR** nor be constructed as a waiver of **CONTRACTOR**'s default or of any other right or remedy of **GPA** in respect of such default, or as waiver of any covenant, term, or condition of this Lease; or
- (d) immediately re-enter upon the **LEASED PREMISES**, remove all persons and property therefrom, at the sole cost and for the account of **CONTRACTOR**, all without service of notice or resort to legal process, without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, and without such re-entry being deemed to terminate this Lease.

6.03. Remedies Cumulative.

The remedies of **OWNER** and **GPA** hereunder shall be cumulative, and no one of them shall be construed as exclusive or any other or of any remedy provided by law or in equity. The exercise of any one such right or remedy by **OWNER** and **GPA** shall not impair its standing to exercise any other such right or remedy.

7. ACCESS TO LEASED PREMISES

CONTRACTOR shall permit **OWNER** and **GPA** and its agents and employees to enter in and upon the **LEASED PREMISES** at all reasonable times to inspect and examine the **LEASED PREMISES**, or to make such repairs that **OWNER** or **GPA** may deem necessary or desirable, provided **OWNER** or **GPA** shall have access to the **LEASED PREMISES** without advanced notice and should an emergency situation occur at the **LEASED PREMISES**.

8. LIMITATION OF GPA'S LIABILITY

CONTRACTOR agrees that **CONTRACTOR** shall look solely to **OWNER**'s and **GPA**'s interest in and to the **FACILITY**, in the event of default or breach by **OWNER** or **GPA** of any of the covenants, terms or conditions of this Lease to be observed or performed by **OWNER** or **GPA**, and that no other assets of **OWNER** and **GPA** shall be subject to levy, execution, or of the process for satisfaction of **CONTRACTOR**'s remedies. The term "**GPA**", as used in this Lease in relation to covenants, agreements, and conditions to be observed and performed by **GPA**, shall be limited to mean and include only the **OWNER** or **OWNERS** from time to time of **GPA**'s interest in this Lease. In the event of any transfer or transfers of such interest (except a transfer for security), **GPA** named herein (or the transferor, in the case of a subsequent transfer) shall, after the date of such transfer, be released from all liability for the performance of any covenant, agreement, and conditions under this **SUBLEASE**, occurring prior to the date of such transfer. This Lease shall bind **GPA**, its successors and assigns only during and in respect of their respective successive periods of ownership of the **FACILITY**.

9. MISCELLANEOUS

9.01. Sublease.

This Sublease and all the rights of parties hereunder are subject and subordinate to the **MASTER LEASE AGREEMENT**. Each party agrees that it will not, by its act or

omission to act, cause a default under the **MASTER LEASE AGREEMENT**. In furtherance of the foregoing, the parties hereby confirm, each to the other, that it is not practical in this **SUBLEASE** to enumerate all of the rights and obligations of the various parties under the **MASTER LEASE AGREEMENT** and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to **CONTRACTOR** the benefits of this Sublease and of those provisions of the **MASTER LEASE AGREEMENT** which by their nature are intended to benefit the party in possession of the **LEASED PREMISES**, and in order to protect **GPA** against a default by **CONTRACTOR** which might cause a default or event of default by **GPA** under the **MASTER LEASE AGREEMENT**:

- A. Provided **CONTRACTOR** shall timely pay all charges as due under this Sublease. **GPA** shall pay, when and as due, the monthly tank rent lease fee, payable by **GPA** to **OWNER** under the **MASTER LEASE AGREEMENT**;
- B. Except as otherwise expressly provided herein, **GPA** shall perform its covenants and obligations under the **MASTER LEASE AGREEMENT** which do not require for its performance possession of the **LEASED PREMISES** and which are not otherwise to be performed hereunder by **CONTRACTOR** on behalf of **GPA**.
- C. Except as otherwise expressly provided herein, **CONTRACTOR** shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the **MASTER LEASE AGREEMENT**, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Premises. If practicable, **CONTRACTOR** shall perform affirmative covenants which are also covenants of **GPA** under the **MASTER LEASE AGREEMENT** at least five (5) days prior to the date when **GPA**'s performance is required under the **MASTER LEASE AGREEMENT**. **GPA** shall have the right to enter the Premises to cure any default by **CONTRACTOR** under this Section.
- D. **GPA** hereby grants to **CONTRACTOR** the right to receive all of the services and benefits with respect to the **LEASED PREMISES** which are to be provided by **OWNER** under the **MASTER LEASE AGREEMENT**. **GPA** shall have no duty to perform any obligations of **OWNER** which are, by their nature, the obligation of an **OWNER** or manager of real property. For example, **GPA** shall not be required to provide the services or repairs which the **OWNER** is required to provide under the **MASTER LEASE AGREEMENT**. **GPA** shall have no responsibility for or be liable to **CONTRACTOR** for any default, failure or delay on the part of **OWNER** in the performance or observance by **OWNER** of any of its obligations under the **MASTER LEASE AGREEMENT**, nor shall such default by **OWNER** affect this Sublease or waive or defer the performance of any of **CONTRACTOR**'s obligations hereunder except to the extent that such default by **OWNER** excuses performance by **GPA**, under the **MASTER LEASE AGREEMENT**. Notwithstanding the foregoing, the parties contemplate that **OWNER** shall, in fact, perform its obligations under the **MASTER LEASE AGREEMENT** and in the event of any default or failure of such performance by **OWNER**, **GPA** agrees that it will, upon notice from **CONTRACTOR**, make demand upon **OWNER** to perform its obligations under the **MASTER LEASE AGREEMENT** and, provided that **CONTRACTOR** specifically agrees to pay all costs and expenses of **GPA** and provides **GPA** with security reasonably satisfactory to **GPA** to pay such costs and expenses, **GPA** will take appropriate legal action to enforce the **MASTER LEASE AGREEMENT**.

9.02. Assignment and Subletting.

CONTRACTOR shall not assign this Lease or sublet the whole or any part of the **LEASED PREMISES**.

9.03. No Option.

The submission of this Lease for examination by **CONTRACTOR** shall not constitute a reservation of or option for the **LEASED PREMISES**. This Lease shall become effective only upon execution and delivery thereof by **GPA** and **CONTRACTOR**.

9.04. Relationship of Parties.

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating between the parties hereto the relationship of principal an agent, partnership, joint venture, or any relationship other than the relationship of **GPA** and **CONTRACTOR**.

9.05. Waiver.

The parties hereto may, by a writing signed by both of the parties, waive the performance by any party of any of the provisions to be performed by such party under this Lease. The failure of any party hereto at any time to insist upon the strict performance of any provision of this Lease shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of such provision at a future time. The waiver by either party hereto of a breach of or noncompliance with any provision of this Lease shall not operate or be construed as a continuing waiver or a waiver of any other or subsequent breach or noncompliance hereunder.

9.06. Severability.

The invalidity or unenforceability of any particular provision of this Lease shall not affect the other provisions, and this Lease shall be construed in all respects as if such invalid or unenforceable provision had not been contained herein.

9.07. Binding Effect

This Lease and all of the terms and provisions hereof shall inure to the benefit of and be binding upon, the respective heirs, executors, administrators, successors and assigns of **GPA** and **CONTRACTOR** except as otherwise expressly provided herein. Nothing in this Lease, express or implied, is intended to confer upon any person, other than the parties hereto, except as provided above, any rights, remedies, obligations, or liabilities under or by reason of this Lease.

9.08. Construction.

This Lease shall be construed and governed in accordance with the laws of the Territory of Guam, without regard to its conflict of law provisions. Whenever in this Lease a singular word is used, it shall also include the plural wherever required by the contract and vice versa. All references in this Lease to periods of days shall be construed to refer to calendar, not business, days. The captions in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions of

this Lease. The Exhibits hereto are incorporated by reference and made a part hereof with the same effect as if set out in fully herein.

9.09. Entire Agreement; Amendments.

This instrument contains the entire agreement between the parties hereto with respect to the subject matter hereof. All representations, promises and prior or contemporaneous undertakings between such parties are merged into and expressed in this instrument, and any and all prior agreements between such parties are hereby canceled. The agreements contained in this instrument shall not be amended, modified, or supplemented except by a written agreement duly executed by both **GPA** and **CONTRACTOR**.

9.10. Survival and Assignment.

The terms and Conditions of this agreement shall survive any change in **GPA** and shall govern the relationship between the **GPA** and the **CONTRACTOR**. **CONTRACTOR** shall not transfer, convey, or sell to a third party any right or obligation under this Lease.

9.11. Notices.

Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or by a reputable courier service (with all expenses of delivery being prepaid) or sent by e-mail, registered or certified mail, postage prepaid, as follows:

GPA:

Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96931
Attn: John M. Benavente, General Manager

CONTRACTOR:

Attn: _____

or to such other address as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the earlier of actual receipt or two (2) business days after being so delivered or mailed.

9.12. Counterparts.

This Lease may be executed in separate counterparts, each of which when so executed shall be an original, but all of such counterparts shall together constitute one and the same instrument.

9.13. Brokers.

GPA and **CONTRACTOR** covenant, warrant and represent that no broker was involved in bringing about or consummating this Lease, and that **GPA** and **CONTRACTOR** had no conversations or negotiations with any broker concerning the leasing of the **LEASED PREMISES**. **CONTRACTOR** agrees to indemnify and hold harmless **OWNER** and **GPA** against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any conversations or negotiations had by **CONTRACTOR** with any broker. **GPA** agrees to indemnify and hold harmless **CONTRACTOR** against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any conversations or negotiations had by **GPA** with any broker.

IN WITNESS WHEREOF, **GPA** and **CONTRACTOR** have executed this Lease as of the day and year first above written.

For the **Guam Power Authority (GPA)**:

John M. Benavente, P.E.
General Manager

DATE

For **(CONTRACTOR)**:

(Company Name and Seal)

CONTRACTOR, Duly Authorized
REPRESENTATIVE OF COMPANY

DATE

APPROVED AS TO FORM:

For the **Guam Power Authority (GPA)**:

Graham Botha, General Counsel

DATE

For the **OWNER (Tristar Terminal Guam, Inc)**:

Kazhakuttam Vikraman, General Manager

DATE

“SCHEDULE E: MASTER LEASE AGREEMENT” (see attached document)

STEP I – QUALITATIVE/ TECHNICAL PROPOSAL SCORESHEET

Page 127 of 135:

(See Attached Excel File)

Qualitative Evaluation Worksheet to now read:

IFB GPA-008-18: Qualitative Proposal Scoring: Qualitative Evaluation Worksheet				
BID EVALUATOR :				
Part 2- Qualifications Evaluation Scoresheet For Task 0: Replace this Text with Bidder's Name.				
	Bidder Checklist Items	Checklist Weight	Raw Rating Score	Weighted Score
1	Business Structure and Business Approach	6		0
	Company Information for Bidder and its affiliates	1		
	Supporting information showing Business Structure (Company Literature, etc.)	1		
	Supporting information showing Nature of Services Provided (for BIDDER and its affiliates)	1		
	Supporting Information describing Business Concepts and Business approach to be used in performing, meeting and achieving objectives of this solicitation	1		
	A copy of Articles of Incorporation and By-Laws, or other applicable forms concerning business organization (for BIDDER and affiliates)	2		
2	Experience and Qualification	36		0
	Supporting information showing extensive and reliable experience in the bulk supply and safe distribution of fuel oil. Information should include, at least, the following: • Successful completion or on-going contracts for the supply and delivery of Diesel Fuel Oil No. 2, within the last five (5) years. Total annual delivered fuel quantity must be similar or greater than the Solicitation volume requirements.	12		
	Supporting information on fleet capacity, illustrating capability to deliver of fuel to GPA plants, within the historical truck-roll range of each GPA plant. Please provide details including, at a minimum, capacity of tanker trucks, truck roll capability, qualification of logistics team.	12		
	Supporting information showing capability to adjust to sudden increase or sudden decrease in delivery demand.	12		
3	Organizational Structure and Qualifications	10		0
	Organizational structure including names and designations of personnel to be assigned on this contract, including a brief description of the qualifications and responsibilities of each personnel. Include structure of logistics crew delivering fuel to GPA plants.	10		
4	Financial Information	9		0
	Brief description of company's financial position and capability.	3		
	Latest 10-K/Annual Report plus any 10-Qs/quarterly report issued subsequently	3		
	Financial Ratio	3		
5	Insurance Policy	9		0
	Provide a copy of your Insurance Policy for GPA's review, and proof of compliance with OPA 90 Insurance Requirements.	9		
6	Federal and Regulatory Compliance	10		0
	Supporting documents showing knowledge and experience in complying with local regulations, federal regulations and other applicable laws on Guam.	10		
7	Client References	10		0
	At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERS (Include the Client Name, Position, Company and copies of contracts with the BIDDERS or AFFILIATES).	5		
	At least three (3) client reference letters describing relationship with Bidder, and Bidder's contract performance.	5		
8	Mobilization Capability	10		0
	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing	10		
A. BIDDER Qualifying Score				0
B. Compliance with quality specifications set in Volume II Section 10 & Schedule A. (Yes = 1 ; No = 0) Bidders shall provide Documentary Evidence (a written statement) of conformity with all of the Quality Specifications set in Volume II Section 10 & Schedule A.				
C. No exceptions, addendums to contract requirements (Yes = 1 ; No = 0)				
FINAL QUALIFICATIONS SCORE (A x B x C)				0
Minimum Score - Potentially Acceptable Proposal				375.00
Minimum Score - Acceptable Proposal				400.00
Maximum Compliance Score				500.00
Minimum Percent Score - Potentially Acceptable Proposal				75.0%
Minimum Percent Score - Acceptable Proposal				80.0%

RATINGS GUIDE:

- 5- Excellent and plentiful relevant qualifications and project experience. Very highest client references.
- 3- Average relevant qualifications and project experience. Average client references.
- 1- Poor relevant qualifications and few relevant projects. Fair Client references.
- 0- No substantial relevant experience.

STEP 2: PRICE PROPOSAL

TO NOW READ:

"BID PRICE PROPOSAL

On this ____ day of _____, 20____, I, _____ (Name of Representative) _____, authorized representative of _____ (Name of Company) _____, a/an (Individual / Partnership / Corporation / Other: _____) incorporated in _____ hereby submit our Price Proposal for

IFB GPA-008-18: SUPPLY OF DIESEL FUEL OIL NO. 2

BID PRICE PROPOSAL :

The **FIXED SERVICE FEE** for all Fuel Oil supplied and delivered by **CONTRACTOR** to the **GPA** Plants at the site locations and estimated quantities identified on **Schedule B** hereto shall be as follows:

MANDATORY BID:

CONTRACT FIXED SERVICE FEE	1st year \$/gal (in 3 decimals)	2nd year \$/gal (in 3 decimals)	3rd yr \$/gal (in 3 decimals)	1st yr extn \$/gal (in 3 decimals)	2nd yr Extn \$/gal (in 3 decimals)
A. Supply Service Fee					
B. Delivery Service Fee					
Fixed Service Fee (A+B)					

Notes:

1. Annual price escalation/descalation for the **Supply Service Fee** shall not exceed five percent (5%).
2. Annual price escalation/descalation for the **Delivery Service Fee** shall not exceed five percent (5%).

Signature and Title of Person Authorized to Sign this Bid:

Name and Address of BIDDER:

IP&E Holding, LLC dba: IP&E Guam:

QUESTION:

1. In reference to Page 1, number 2: Volume II - Contract, Section 1: Definitions, Paragraph b: "Receiving Facility" and, additionally referenced in Page 7, Section 13: Security of Supply, paragraph a: referencing a sublease agreement of the tank at the Tristar Terminal.
 - Please provide a copy of the Tristar lease agreement.

ANSWER:

Kindly refer to **Schedule D** (Sub-Lease Agreement) and **Schedule E** (Master Lease Agreement/Tristar Lease Agreement) attached.

QUESTION:

2. IP&E requests an extension of 30 days for questions submittal, pending receipt of the aforementioned Tristar Lease Agreement, to allow us ample time to review.

ANSWER:

Kindly refer to #1 of **CHANGES** above.

All other Terms and Conditions in the bid package shall remain unchanged and in full force.


JOHN M. BENAVENTE, P.E.
General Manager

SCHEDULE D:

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (hereinafter referred to as "SUBLEASE") is made and entered into as of the ____ day of _____, 2018 (the "Effective Date"), by and between the **GUAM POWER AUTHORITY** (hereinafter referred to as "GPA"), and _____, (hereinafter referred to as "CONTRACTOR"). GPA is the lessee for the Storage Lease Agreement under TTGI-SA-2018-001, dated January 1, 2018, (hereinafter referred to as "MASTER LEASE AGREEMENT"), from Tristar Terminals Guam, Inc (hereinafter referred to as "OWNER") for the lease of Storage Tank 1906 (hereinafter referred to as "LEASED PREMISES") located at Agat, Guam.

WITNESSETH:

1. LEASED PREMISES

Section 1.01. LEASED PREMISES.

- (a) GPA hereby leases to CONTRACTOR, and CONTRACTOR hereby leases from GPA, storage tank located at Tristar Storage FACILITY (hereinafter referred the "FACILITY"). Storage tank 1906 hereby leased to CONTRACTOR is depicted and designated as "LEASED PREMISES", with a safe storage capacity of One Hundred Ninety-Six Thousand Barrels (196,000 bbls) and shall be utilized for storage of Diesel Fuel Oil No.2.
- (b) Monthly storage lease fee shall be waived by GPA. CONTRACTOR shall be solely responsible for all other expenses under this SUBLEASE, to include, but not limited to, dock fees, pipeline fees, and TriStar administrative fees (if overtime is incurred).
- (c) CONTRACTOR shall oversee, manage and administer the LEASED PREMISES and terms of this SUBLEASE.

Section 1.02. Use Rights of OWNER and GPA.

OWNER and GPA may from time to time, in coordination with CONTRACTOR, shall be allowed to use the tank, and grant to any party, person or entity the non-exclusive right, to the extent permitted under this SUBLEASE.

Section 1.03. MASTER LEASE AGREEMENT.

GPA is the Customer under the MASTER LEASE AGREEMENT with the OWNER identified above. GPA represents and warrants to CONTRACTOR that:

- (a) GPA has delivered to CONTRACTOR a full and complete copy of the MASTER LEASE AGREEMENT and all other agreements between OWNER and GPA relating to the leasing and use of the LEASED PREMISES;
- (b) the MASTER LEASE AGREEMENT is, as of the date hereof, in full force and effect; and
- (c) no event of default has occurred under the MASTER LEASE AGREEMENT and, to GPA's knowledge, no event has occurred and is continuing which would constitute an event of default but for the requirement of the giving of notice and/or the expiration of the period of time to cure.

2. LEASE TERM

Section 2.01. Term.

The "Commencement Date" of the Lease shall be January 01, 2019 and shall continue until the termination of the **MASTER LEASE AGREEMENT** or **GPA's** Fuel Supply Contract with the **CONTRACTOR**, whichever occurs first.

3. USE OF LEASED STORAGE FACILITY

Section 3.01. Permissible Use and Restrictions.

(a) The **LEASED PREMISES** shall be continuously used solely for Diesel Fuel Oil No.2 storage and for no other purpose without **OWNER** and **GPA's** prior written consent during the term of the lease.

(b) Scheduling. **GPA** and **CONTRACTOR** desire to optimize use of the **LEASED PREMISES**, and so agree to cooperate and communicate regarding scheduling of the **FACILITY**. **CONTRACTOR** shall manage the inventory and be responsible for scheduling and booking of fuel shipments to the **LEASED PREMISES**, but shall share with **GPA** not less frequently than on a monthly basis the proposed shipment schedule 18 months into the future. **GPA's** goal is to optimize use of the **FACILITY**.

Section 3.02. Rules and Regulations.

CONTRACTOR shall comply with the rules and regulations adopted by **OWNER** of the **FACILITY**. **OWNER** shall have the right at all times to change and amend the rules and regulations in any reasonable manner as it may deem advisable for safety, care, cleanliness, preservation of good order and operation or use of the **FACILITY**.

Section 3.03. Hazardous Substances.

CONTRACTOR shall not place or use tanks, drums or other containers of any kind in, on, at or under the **LEASED PREMISES**, the contents of which are unknown to **OWNER** or **GPA**. **CONTRACTOR** shall not engage in any activities involving the use, treatment, transportation, generation, storage or disposal of any Hazardous Substances (as hereinafter defined) in hazardous quantities and no Hazardous Substances in hazardous quantities shall be released on, at or from the **LEASED PREMISES** or elsewhere in the **FACILITY**.

CONTRACTOR shall indemnify, defend, and hold harmless **OWNER** and **GPA** from and against:

- (a) any loss, cost, expense, claim, or liability arising out of any investigation, monitoring, clean-up, containment, removal, storage, or restoration work (herein referred to as "Remedial Work") required by, or incurred by, **OWNER** or **GPA** or any other person or party in a reasonable belief that such Remedial Work is required by any applicable federal, state or local law, rule, regulation or order, or by any governmental agency, authority, or political subdivision having jurisdiction over the **LEASED PREMISES** as a result of or arising from the use or occupancy by **CONTRACTOR** or its agents, employees, or invitees of the **LEASED PREMISES**, and
- (b) any claims of third parties for loss, injury, expense, or damage arising out of the presence, release, or discharge of any Hazardous Substances on, under, in, above, to or from the **LEASED PREMISES** as a result of or arising from the use or occupancy by **CONTRACTOR** or its agents, employees, or invitees of the **LEASED PREMISES**.

Section 3.04. Hold Harmless.

OWNER and **GPA** shall not be liable to **CONTRACTOR** or to **CONTRACTOR's** customers, employees, agents, guests or invitees, or to any other person whomsoever, for any injury to person or damage to property on or about the **LEASED PREMISES** or the **FACILITY**, including, but not limited to, consequential damage:

(1) caused by any act or omission of **CONTRACTOR**, its employees, subcontractors, licensees, invitees and concessionaires invited by **CONTRACTOR** or of any other person entering the **FACILITY** or the **LEASED PREMISES** by express or implied invitation of **CONTRACTOR**; or

(2) arising out of the use of the **LEASED PREMISES** or the **FACILITY** by **CONTRACTOR**, its employees, subcontractors, licensees, concessionaires invited by **CONTRACTOR** or invitees. **CONTRACTOR** hereby agrees to indemnify and hold **OWNER** and **GPA** harmless from any liability, loss, expense or claim (including, but not limited to, attorneys' fees) arising out of any such damage or injury. **OWNER** and **GPA** shall not be liable to **CONTRACTOR** for any loss or damage that may be occasioned by or through the acts or omissions of other **CONTRACTORS** of the **FACILITY** or of any other persons whomsoever. Further, any **CONTRACTOR** specifically agrees to be responsible for and indemnify and hold **OWNER** and **GPA** harmless from any and all damages or expenses of whatever kind arising out of or caused by a burglary, theft, vandalism, malicious mischief or other illegal acts performed in, at or from the **LEASED PREMISES**. **CONTRACTOR**'s obligations under this Section shall survive the expiration or earlier termination of this Lease.

4. MAINTENANCE AND ALTERATIONS

Section 4.01. OWNER's Obligations.

OWNER shall keep in good repair, operate and maintain the **LEASED PREMISES**.

Section 4.02. CONTRACTOR's Obligations.

CONTRACTOR shall not suffer or permit any injury to the **LEASED PREMISES**. **CONTRACTOR** shall immediately notify **GPA** of any damage, injury, or disrepair of any part of the **LEASED PREMISES** caused by or known to **CONTRACTOR**.

Section 4.03. Alterations and Additions.

CONTRACTOR shall make no alterations or additions to any part of the **LEASED PREMISES**.

5. INDEMNIFICATION AND INSURANCE

Section 5.01. Indemnification.

CONTRACTOR assumes all risks and responsibilities for accidents, injuries, or damages to persons or property (other than as provided in Section 5.02 below with respect to damage by fire and casualty), and agrees to indemnify and hold harmless **GPA** from any and all claims, liabilities, losses, costs, and expenses (including attorneys' fees), arising from or in connection with **CONTRACTOR**'s use of the **LEASED PREMISES** during the Lease Term.

Section 5.02. CONTRACTOR Insurance.

CONTRACTOR shall, during the Lease Term, keep in full force and effect policies of public liability insurance (with contractual liability endorsement covering the matters set forth in Section 5.01 above), in companies and in a form acceptable to **OWNER** and **GPA**, with respect to the **LEASED PREMISES**, in which both **CONTRACTOR** and **GPA** shall be named as parties covered thereby (covering **CONTRACTOR** as the named insured and identifying **OWNER** and **GPA** as an "additional insured"), providing for insurance and minimum limits provided under Section 11 of the **MASTER LEASE AGREEMENT**. All insurance maintained by **CONTRACTOR** as required pursuant to this Section shall be carried in favor of **OWNER**, **GPA** and **CONTRACTOR**, as their respective interests may

appear. **CONTRACTOR** shall furnish **OWNER** and **GPA** with certificates of insurance, and all such insurance shall carry a provision providing that it will not be subject to cancellation, termination, or change except after at least thirty (30) days prior written notice to **GPA**. If **CONTRACTOR** fails to comply with the above requirements, **GPA** may obtain such insurance and keep same in effect, and **CONTRACTOR** shall pay **GPA** all premium costs thereof upon demand.

Section 5.03. Waiver of Subrogation.

All insurance policies maintained by **CONTRACTOR** as provided in this Article shall contain an agreement by the insurer waiving the insurer's right of subrogation against the other party to this Lease or agreeing not to acquire any rights of recovery which the insured has expressly waived prior to loss. Each of the parties hereto agrees that if the provision waiving subrogation in any of such policies of insurance requires that notice of such waiver be served upon the insurer, such notice shall be promptly served by the party obtaining such insurance.

6. DEFAULT AND REMEDIES

Section 6.01. Events of Default.

Each of the following shall be deemed a default by **CONTRACTOR** unless the same has been cured within sixty (60) calendar days following the default:

- (a) **CONTRACTOR**'s failure to perform or observe any other terms, conditions, or covenants of this Lease to be performed or observed by **CONTRACTOR**;
- (b) Any change or modification in the use of the **LEASED PREMISES** or any substantial change in the quality of character of such use if such change adversely affects the **FACILITY** to be solely determined by **OWNER**;
- (c) The adjudication of **CONTRACTOR** as a bankrupt;
- (d) The making by **CONTRACTOR** of a general assignment for the benefit of creditors;
- (e) The appointment of a receiver in equity for **CONTRACTOR**'s property if such appointment is not vacated or otherwise terminated within sixty (60) days from the date of such appointment;
- (f) **CONTRACTOR**'s filing of a voluntary petition in bankruptcy or for reorganization or arrangement;
- (g) **CONTRACTOR**'s filing of an answer admitting bankruptcy or agreeing to reorganization or arrangement;
- (h) Issuance of a criminal indictment or charge against **CONTRACTOR**; or
- (i) Dissolution or other termination of **CONTRACTOR**'s corporate charter.

Section 6.02. OWNER and GPA's Rights Upon CONTRACTOR's Default.

In the event of any default provided in the foregoing Section 6.01, not cured within the applicable cure period, without any further demand or notice **GPA**, in addition to pursuing any other rights or remedies available at law or in equity, may:

- (a) Collect the past due amounts by withdrawing such amount from the **CONTRACTOR**;
- (b) Elect to terminate this Lease;
- (c) In the event that **CONTRACTOR** has failed to perform any of its covenants under this Lease to perform the covenant or covenants of **CONTRACTOR** which are in default at **CONTRACTOR**'s cost and expense (entering upon the **LEASED PREMISES** for such purpose, if necessary); and **GPA**'s performance of any such covenant shall neither subject **OWNER** and **GPA** to liability for any loss, inconvenience, or damage to **CONTRACTOR** nor be constructed as a waiver of **CONTRACTOR**'s default or of any other right or remedy of **GPA** in respect of such default, or as waiver of any covenant, term, or condition of this Lease; or

- (d) immediately re-enter upon the **LEASED PREMISES**, remove all persons and property therefrom, at the sole cost and for the account of **CONTRACTOR**, all without service of notice or resort to legal process, without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, and without such re-entry being deemed to terminate this Lease.

Section 6.03. Remedies Cumulative.

The remedies of **OWNER** and **GPA** hereunder shall be cumulative, and no one of them shall be construed as exclusive or any other or of any remedy provided by law or in equity. The exercise of any one such right or remedy by **OWNER** and **GPA** shall not impair its standing to exercise any other such right or remedy.

7. ACCESS TO LEASED PREMISES

CONTRACTOR shall permit **OWNER** and **GPA** and its agents and employees to enter in and upon the **LEASED PREMISES** at all reasonable times to inspect and examine the **LEASED PREMISES**, or to make such repairs that **OWNER** or **GPA** may deem necessary or desirable, provided **OWNER** or **GPA** shall have access to the **LEASED PREMISES** without advanced notice and should an emergency situation occur at the **LEASED PREMISES**.

8. LIMITATION OF GPA'S LIABILITY

CONTRACTOR agrees that **CONTRACTOR** shall look solely to **OWNER's** and **GPA's** interest in and to the **FACILITY**, in the event of default or breach by **OWNER** or **GPA** of any of the covenants, terms or conditions of this Lease to be observed or performed by **OWNER** or **GPA**, and that no other assets of **OWNER** and **GPA** shall be subject to levy, execution, or of the process for satisfaction of **CONTRACTOR's** remedies. The term "**GPA**", as used in this Lease in relation to covenants, agreements, and conditions to be observed and performed by **GPA**, shall be limited to mean and include only the **OWNER** or **OWNERS** from time to time of **GPA's** interest in this Lease. In the event of any transfer or transfers of such interest (except a transfer for security), **GPA** named herein (or the transferor, in the case of a subsequent transfer) shall, after the date of such transfer, be released from all liability for the performance of any covenant, agreement, and conditions under this **SUBLEASE**, occurring prior to the date of such transfer. This Lease shall bind **GPA**, its successors and assigns only during and in respect of their respective successive periods of ownership of the **FACILITY**.

9. MISCELLANEOUS

Section 9.01. Sublease.

This Sublease and all the rights of parties hereunder are subject and subordinate to the **MASTER LEASE AGREEMENT**. Each party agrees that it will not, by its act or omission to act, cause a default under the **MASTER LEASE AGREEMENT**. In furtherance of the foregoing, the parties hereby confirm, each to the other, that it is not practical in this **SUBLEASE** to enumerate all of the rights and obligations of the various parties under the **MASTER LEASE AGREEMENT** and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to **CONTRACTOR** the benefits of this Sublease and of those provisions of the **MASTER LEASE AGREEMENT** which by their nature are intended to benefit the party in possession of the **LEASED PREMISES**, and in order to protect **GPA** against a default by **CONTRACTOR** which might cause a default or event of default by **GPA** under the **MASTER LEASE AGREEMENT**:

- A. Provided **CONTRACTOR** shall timely pay all charges as due under this Sublease. **GPA** shall pay, when and as due, the monthly tank rent lease fee, payable by **GPA** to **OWNER** under the **MASTER LEASE AGREEMENT**;
- B. Except as otherwise expressly provided herein, **GPA** shall perform its covenants and obligations under the **MASTER LEASE AGREEMENT** which do not require for its performance possession of the **LEASED PREMISES** and which are not otherwise to be performed hereunder by **CONTRACTOR** on behalf of **GPA**.
- C. Except as otherwise expressly provided herein, **CONTRACTOR** shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the **MASTER LEASE AGREEMENT**, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Premises. If practicable, **CONTRACTOR** shall perform affirmative covenants which are also covenants of **GPA** under the **MASTER LEASE AGREEMENT** at least five (5) days prior to the date when **GPA**'s performance is required under the **MASTER LEASE AGREEMENT**. **GPA** shall have the right to enter the Premises to cure any default by **CONTRACTOR** under this Section.
- D. **GPA** hereby grants to **CONTRACTOR** the right to receive all of the services and benefits with respect to the **LEASED PREMISES** which are to be provided by **OWNER** under the **MASTER LEASE AGREEMENT**. **GPA** shall have no duty to perform any obligations of **OWNER** which are, by their nature, the obligation of an **OWNER** or manager of real property. For example, **GPA** shall not be required to provide the services or repairs which the **OWNER** is required to provide under the **MASTER LEASE AGREEMENT**. **GPA** shall have no responsibility for or be liable to **CONTRACTOR** for any default, failure or delay on the part of **OWNER** in the performance or observance by **OWNER** of any of its obligations under the **MASTER LEASE AGREEMENT**, nor shall such default by **OWNER** affect this Sublease or waive or defer the performance of any of **CONTRACTOR**'s obligations hereunder except to the extent that such default by **OWNER** excuses performance by **GPA**, under the **MASTER LEASE AGREEMENT**. Notwithstanding the foregoing, the parties contemplate that **OWNER** shall, in fact, perform its obligations under the **MASTER LEASE AGREEMENT** and in the event of any default or failure of such performance by **OWNER**, **GPA** agrees that it will, upon notice from **CONTRACTOR**, make demand upon **OWNER** to perform its obligations under the **MASTER LEASE AGREEMENT** and, provided that **CONTRACTOR** specifically agrees to pay all costs and expenses of **GPA** and provides **GPA** with security reasonably satisfactory to **GPA** to pay such costs and expenses, **GPA** will take appropriate legal action to enforce the **MASTER LEASE AGREEMENT**.

Section 9.02. Assignment and Subletting.

CONTRACTOR shall not assign this Lease or sublet the whole or any part of the **LEASED PREMISES**.

Section 9.03. No Option.

The submission of this Lease for examination by **CONTRACTOR** shall not constitute a reservation of or option for the **LEASED PREMISES**. This Lease shall become effective only upon execution and delivery thereof by **GPA** and **CONTRACTOR**.

Section 9.04. Relationship of Parties.

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating between the parties hereto the relationship of principal an agent, partnership, joint venture, or any relationship other than the relationship of **GPA** and **CONTRACTOR**.

Section 9.05. Waiver.

The parties hereto may, by a writing signed by both of the parties, waive the performance by any party of any of the provisions to be performed by such party under this Lease. The failure of any party hereto at any time to insist upon the strict performance of any provision of this Lease shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of such provision at a future time. The waiver by either party hereto of a breach of or noncompliance with any provision of this Lease shall not operate or be construed as a continuing waiver or a waiver of any other or subsequent breach or noncompliance hereunder.

Section 9.06. Severability.

The invalidity or unenforceability of any particular provision of this Lease shall not affect the other provisions, and this Lease shall be construed in all respects as if such invalid or unenforceable provision had not been contained herein.

Section 9.07. Binding Effect

This Lease and all of the terms and provisions hereof shall inure to the benefit of and be binding upon, the respective heirs, executors, administrators, successors and assigns of **GPA** and **CONTRACTOR** except as otherwise expressly provided herein. Nothing in this Lease, express or implied, is intended to confer upon any person, other than the parties hereto, except as provided above, any rights, remedies, obligations, or liabilities under or by reason of this Lease.

Section 9.08. Construction.

This Lease shall be construed and governed in accordance with the laws of the Territory of Guam, without regard to its conflict of law provisions. Whenever in this Lease a singular word is used, it shall also include the plural wherever required by the contract and vice versa.

All references in this Lease to periods of days shall be construed to refer to calendar, not business, days. The captions in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions of this Lease. The Exhibits hereto are incorporated by reference and made a part hereof with the same effect as if set out in fully herein.

Section 9.10. Entire Agreement; Amendments.

This instrument contains the entire agreement between the parties hereto with respect to the subject matter hereof. All representations, promises and prior or contemporaneous undertakings between such parties are merged into and expressed in this instrument, and any and all prior agreements between such parties are hereby canceled. The agreements contained in this instrument shall not be amended, modified, or supplemented except by a written agreement duly executed by both **GPA** and **CONTRACTOR**.

Section 9.11. Survival and Assignment. The terms and Conditions of this agreement shall survive any change in **GPA** and shall govern the relationship between the **GPA** and the **CONTRACTOR**. **CONTRACTOR** shall not transfer, convey, or sell to a third party any right or obligation under this Lease.

Section 9.12. Notices.

Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or by a reputable courier service (with all expenses of delivery being prepaid) or sent by e-mail, registered or certified mail, postage prepaid, as follows:

GPA:

Guam Power Authority
P.O. Box 2977

Hagatna, Guam 96931
Attn: John M. Benavente, General Manager

CONTRACTOR:

Attn: _____

or to such other address as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the earlier of actual receipt or two (2) business days after being so delivered or mailed.

Section 9.12. Counterparts.

This Lease may be executed in separate counterparts, each of which when so executed shall be an original, but all of such counterparts shall together constitute one and the same instrument.

Section 9.13. Brokers.

GPA and **CONTRACTOR** covenant, warrant and represent that no broker was involved in bringing about or consummating this Lease, and that **GPA** and **CONTRACTOR** had no conversations or negotiations with any broker concerning the leasing of the **LEASED PREMISES**. **CONTRACTOR** agrees to indemnify and hold harmless **OWNER** and **GPA** against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any conversations or negotiations had by **CONTRACTOR** with any broker. **GPA** agrees to indemnify and hold harmless **CONTRACTOR** against and from any claims for any brokerage commissions and all costs, expenses and liabilities in connection therewith including, but not limited to, attorneys' fees and expenses arising out of any conversations or negotiations had by **GPA** with any broker.

IN WITNESS WHEREOF, **GPA** and **CONTRACTOR** have executed this Lease as of the day and year first above written.

For the **Guam Power Authority (GPA)**:

John M. Benavente, P.E.
General Manager

DATE

For **(CONTRACTOR)**:

(Company Name and Seal)

**CONTRACTOR, Duly Authorized
REPRESENTATIVE OF COMPANY**

DATE

APPROVED AS TO FORM:

For the **Guam Power Authority (GPA):**

Graham Botha, Legal Counsel

DATE

For the **OWNER (Tristar Terminal Guam, Inc):**

Kazhakuttam Vikraman, General Manager

DATE

IFB GPA-008-18: Qualitative Proposal Scoring: Qualitative Evaluation Worksheet

BID EVALUATOR :

Part 2- Qualifications Evaluation Scoresheet For Task 0: Replace this Text with Bidder's Name.

	Bidder Checklist Items	Checklist Weight	Raw Rating Score	Weighted Score
	Business Structure and Business Approach	6		0
1	Company Information for Bidder and its affiliates	1		
	Supporting information showing Business Structure (Company Literature, etc.)	1		
	Supporting information showing Nature of Services Provided (for BIDDER and its affiliates)	1		
	Supporting information describing Business Concepts and Business approach to be used in performing, meeting and achieving objectives of this solicitation	1		
	A copy of Articles of Incorporation and By-Laws, or other applicable forms concerning business organization (for BIDDER and affiliates)	2		
	Experience and Qualification	36		0
2	Supporting information showing extensive and reliable experience in the bulk supply and safe distribution of fuel oil. Information should include, at least, the following: • Successful completion or on-going contracts for the supply and delivery of Diesel Fuel Oil No. 2, within the last five (5) years. Total annual delivered fuel quantity must be similar or greater than the Solicitation volume requirements.	12		
	Supporting information on fleet capacity, illustrating capability to deliver of fuel to GPA plants, within the historical truck-roll range of each GPA plant. Please provide details including, at a minimum, capacity of tanker trucks, truck roll capability, qualification of logistics team.	12		
	Supporting information showing capability to adjust to sudden increase or sudden decrease in delivery demand.	12		
	Organizational Structure and Qualifications	10		0
3	Organizational structure including names and designations of personnel to be assigned at this contract, including a brief description of the qualifications and responsibilities of each personnel. Include structure of logistics crew delivering fuel to GPA plants.	10		
	Financial Information	9		0
4	Brief description of company's financial position and capability.	3		
	Latest 10-k/Annual Report plus any 10-Qs/quarterly report issued subsequently	3		
	Financial Ratio	3		
	Insurance Policy	9		0
5	Provide a copy of your Insurance Policy for GPA's review, and proof of compliance with OPA 90 Insurance Requirements.	9		
	Federal and Regulatory Compliance	10		0
6	Supporting documents showing knowledge and experience in complying with local regulations, federal regulations and other applicable laws on Guam.	10		
	Client References	10		0
7	At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERS (include the Client Name, Position, Company and copies of contracts with the BIDDERS or AFFILIATES).	5		
	At least three (3) client reference letters describing relationship with Bidder, and Bidder's contract performance.	5		
	Mobilization Capability	10		0
8	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing	10		
A. BIDDER Qualifying Score				0

B. Compliance with quality specifications set in Volume II Section 10 & Schedule A. (Yes = 1 ; No = 0) Bidders shall provide Documentary Evidence (a written statement) of conformity with all of the Quality Specifications set in Volume II Section 10 & Schedule A.	
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C. No exceptions, addendums to contract requirements (Yes = 1 ; No = 0)	
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FINAL QUALIFICATIONS SCORE (A x B x C)	0
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Minimum Score - Potentially Acceptable Proposal	375.00
Minimum Score - Acceptable Proposal	400.00
Maximum Compliance Score	500.00
Minimum Percent Score - Potentially Acceptable Proposal	75.0%
Minimum Percent Score - Acceptable Proposal	80.0%

RATINGS GUIDE:

5 - Excellent and plentiful relevant qualifications and project experience. Very highest client references

3 - Average relevant qualifications and project experience. Average client references.

1 - Poor relevant qualifications and few relevant projects. Fair Client references.

0 - No substantial relevant experience.

BID PRICE PROPOSAL

On this ____ day of _____, 20____, I, _____ (Name of Representative) _____,

authorized representative of _____ (Name of Company) _____,

a/an (Individual / Partnership / Corporation / Other: _____) incorporated in

_____ hereby submit our Price Proposal for

IFB GPA-008-18: SUPPLY OF DIESEL FUEL OIL NO. 2

BID PRICE PROPOSAL :

The **FIXED SERVICE FEE** for all Fuel Oil supplied and delivered by **CONTRACTOR** to the **GPA** Plants at the site locations and estimated quantities identified on **Schedule B** hereto shall be as follows:

MANDATORY BID:

CONTRACT FIXED SERVICE FEE	1st year \$/gal (in 3 decimals)	2nd year \$/gal (in 3 decimals)	3rd yr \$/gal (in 3 decimals)	1st yr extn \$/gal (in 3 decimals)	2nd yr Extn \$/gal (in 3 decimals)
A. Supply Service Fee					
B. Delivery Service Fee					
Fixed Service Fee (A+B)					

Notes:

1. Annual price escalation/descalation for the **Supply Service Fee** shall not exceed five percent (5%).
2. Annual price escalation/descalation for the **Delivery Service Fee** shall not exceed five percent (5%).

Signature and Title of Person
Authorized to Sign this Bid:

Name and Address of BIDDER:

SCHEDULE E

MASTER LEASE AGREEMENT



**THROUGHPUT, OPERATING and PIPELINE USE
AGREEMENT FOR WET STOCK**

between

Tristar Terminals Guam, Inc.

and

Guam Power Authority

Contract No: TTGI-SA-2018-01

This THRUPT, OPERATING and PIPELINE USE AGREEMENT for WET STOCK (the "**Agreement**") is made and entered into as of **January 01, 2018** (the "**Effective Date**"), by and between Guam Power Authority, (hereinafter referred to as "**GPA**" or "**Customer**") and Tristar Terminals Guam Inc., a Guam corporation (hereinafter referred to as "**Operator**"), with each a "**Party**" and collectively, the "**Parties**").

RECITALS:

WHEREAS, Operator operates the facility at the Commercial Port of Guam known as the F-1 Dock under an F-1 Management Agreement between Tristar and the Port Authority of Guam; and

WHEREAS, the Customer and Operator have entered into an F-1 Dock User Agreement dated 1st of September, 2013; and

WHEREAS, Operator has manifolding equipment located on the F-1 Dock, and pipelines (the Tristar Pipelines), which run through the Port Authority of Guam leases and easements (the PAG Easements) from the F-1 Dock to a point of Intersection commonly referred to the Navy Valve Pit; and

WHEREAS, the Operator Pipelines Include a pipeline designated and known as the A, B & D Pipelines; and

WHEREAS, Operator holds a Perpetual Pipeline Easement (the Tristar DoD Easement) granted by the United States Department of Defense which extends from the Navy Valve Pit to Tristar facilities commonly known as the Agat Terminal and the Tristar Pipelines, including the A, B & D Pipelines, run through the Tristar DOD Easement to connect the Navy Valve Pit with the Agat Terminal so as to provide a continuous connection from the F-1 Dock to the Agat Terminal; and

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

A. USAGE; DEFINITION

A.1 Usage unless otherwise specified

- a) a reference to "Sections", "Annexes", "Exhibits", and "Schedules" shall be deemed to be references to Sections of, Annexes, Exhibits and Schedules to this Agreement, unless the context shall otherwise require;
- b) a reference to a "company" shall include any company, corporation or other body corporate, wherever and however incorporated or established and irrespective of the jurisdiction in or under the law of which it was incorporated or exists;
- c) a reference to the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "or" is not exclusive. The words "hereof," "herein" and "hereunder" and words of similar import when used in any Transaction Document shall refer to the agreement as a whole and not to any particular provision of this agreement;
- d) a reference to a "day" (including within the expression "Business Day") shall mean a period of 24 hours running from midnight to midnight;
- e) a reference to time is a reference to the local time on Guam
- f) all headings and titles used are for convenience only and are not to be used for interpretation or construction;
- g) where the context so requires, words importing the singular shall include the plural and vice versa and words importing gender include any other gender;

- h) all statements or language placed in parentheses within an agreement are done so solely for the convenience and ease of reading. In no event should such statements or language be given less import or be interpreted differently than if it were not so parenthesized;
- i) any agreement, instrument, statute, code, proclamation or decree defined or referred to herein means such agreement, instrument, statute, code, proclamation or decree as from time to time amended, modified, supplanted, or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes, proclamations or decrees) by succession of comparable successor statutes, codes, proclamations or decrees

A.2 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

- a) **"Affiliates"** means any entity or organization which directly or indirectly controls, is controlled by or is under common control with a party to this agreement. As used in this definition, "control" (and the correlatives, "controlled by" and "under common control with") shall mean 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); provided, however, that in any event, any entity or organization which owns, directly or indirectly, fifty percent (50%) or more of the securities having ordinary voting power for election of directors or other governing body of a corporation or fifty percent (50%) or more of the partnership or other ownership interests of any non-corporate entity shall be deemed to control such corporation or other entity.
- b) **"Ancillary Facilities"** means those facilities and fixtures at the Terminal or F-1 Dock needed for access by User, its representatives, or its customers and their representatives in regard to this Agreement, including general ingress and egress to roadways and parking lots at the Terminal and access to loading gantries/pipeline rack lanes;
- c) **"Affected Party"** has the meaning set forth in Section 15.1 of this Agreement;
- d) **"Agreement"** has the meaning set forth in the introduction;
- e) **"Customer"** has the meaning set forth in the introduction;
- f) **"Delivery Point"** has the meaning set forth in Section 13 of this Agreement;
- g) **"Dispute"** has the meaning set forth in Section 17.1 of this Agreement;
- h) **"Effective Date"** has the meaning set forth in the introduction;
- i) **"Existing Dispute"** has the meaning set forth in Section 17.7 of this Agreement;
- j) **"Expert"** means a person of appropriate reputation, standing and relevant experience in the energy industry who has no direct or indirect personal interest in the outcome of the dispute or issue in respect of which he has been consulted pursuant to this Agreement and who has been appointed pursuant to the procedures set forth in Section G of this Agreement;
- k) **"Facility"/"Facilities"** has the meaning set forth in Section 1 of this Agreement;
- l) **"F-1 Dock"** means the Foxtrot-1 dock on Cabras Island, Guam, operated by Operator on behalf of the Port Authority of Guam.
- m) **"Force Majeure Event"** means, in relation to any Party, any act, event or circumstance, the cause of which is beyond that Party's reasonable control, including acts of God, war,

terrorist acts, any strike, lock-out or other industrial trade dispute, or federal, territorial, or municipal order, rule, legislation or regulation.

- n) **"Good Industry Practice"** means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and conditions.
- o) **"Insurance"** has the meaning set forth in Section 11.1 of this Agreement;
- p) **"Operator"** has the meaning set forth in the introduction;
- q) **"Operator's Safety Rules"** has the meaning set forth in Section 30 of this Agreement;
- r) **"Party"/"Parties"** has the meaning set forth in the introduction;
- s) **"Product"/"Products"** has the meaning set forth in Section C.3 of this Agreement;
- t) **"Reasonable and Prudent Operator"** means a person acting, in good faith, to perform his contractual obligations and, in doing so and in the general conduct of its undertaking, exercising the degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;
- u) **"Redelivery Point"** has the meaning set forth in Section 11 of this Agreement;
- v) **"Related Dispute"** has the meaning set forth in Section 17.7 of this Agreement;
- w) **"Rules"** has the meaning set forth in Section 17.1 of this Agreement;
- x) **"SOP"** has the meaning set forth in Section 27 of this Agreement;
- y) **"Term"** has the meaning set forth in Section H.1 of this Agreement;
- z) **"Terminal"** means the Agat terminal, owned by the Operator, located in the municipalities of Piti and Santa Rita, United States Territory of Guam;
- aa) **"Tribunal"** has the meaning set forth in Section 17.3 of this Agreement;

B. FACILITIES LOCATION

B.1 Facility(ies):

- a) The Terminal, including and without limitation to:
 - the tanks, pipelines, pumps, flow meters and any other fixtures or appurtenances at the Terminal needed to be utilized for this Agreement;
 - the D pipeline between the Terminal and the F-1 Dock; Truck Loading Gantry
- b) the discharge hoses at the F-1 Dock; and
- c) the lifting equipment at the F-1 Dock
- d) Any other fixtures or appurtenances needed to be utilized for this Agreement;

B.2 Address:

Route 2a, Santa Rita Industrial Drive, Piti/Santa Rita, Guam

C. FACILITIES SERVICES

C.1 Storage:

- a) Operator agrees to provide one (1) storage tank, Tank 1906, to Customer with a total nominal capacity of one hundred ninety six thousand (196,000) barrels for the storage of Diesel product. The tanks provided for Customer's product storage shall be maintained and operated in accordance with all applicable laws and regulations throughout the term of the Agreement at Operator's sole cost.

C.2 Use of Pipelines:

The Facilities services related to the storage provided in Sections C.1(a) above include the use of Operator's cargo lines or main pipelines, including specifically main pipeline D Pipeline from the F-1 Dock to the Terminal for:

- a) receipt and/or delivery of Products from/to the Terminal to/from the F-1 Dock;
- b) receipt and/or delivery of Products from/to the Terminal to/from the SPPC Cabras Terminal;
- c) receipt and/or delivery of Products from/to the Terminal and to/from Customer's F-3 Tanks or directly to Customer's customers at F-3 Dock;
- d) receipt of Products from F-1 Dock directly to SPPC's Cabras Terminal;
- e) receipt and/or delivery of Products from/to the Terminal to/from Customer's and/or its agents' Tanks at the Operator's pipeline manifold at the Navy Tie-in; and

For the avoidance of doubt, the use of pipelines and other appurtenances inside of the Terminal necessary for the receipt/delivery operations are included in the services to be provided by Operator hereunder, including the use of the pipeline between the Terminal and the Tenjo power plant and interconnection with the GPA-Tristar pipeline at the navy tie-in for transfer of products to the GPA power plants.

C.3 Use Of Truck Loading Gantry

The Facilities services related to the storage provided in Sections C.1(a) above shall include the use of Operator's Truck Loading Gantry and other appurtenances at the Terminal needed to be utilized for this Agreement.

Operator agrees to provide Customer and its agents safe access to the facility. The Operator shall, at its sole cost, perform the safe transfer of Product into the Customer's and/or its agents' tanker trucks.

C.4 Product:

Product to be stored by Customer at the Terminal is Diesel.

C.5 Receipt/Delivery Modes:

- a) Receipt modes include, but are not limited to:
 - Marine
 - Pipeline
 - Inter-Tank Transfer

- b) Delivery modes include, but are not limited to:
 - Marine
 - Pipeline
 - Inter-Tank Transfer
 - Gantry for Tanker Truck Loading

Operator shall arrange for Customer's and its customers' vessels to be berthed and unberthed at the F-1 Dock, for the hose connection between Customer's and its customers' vessels and the F-1 Dock to be connected and disconnected and for receipt and delivery of Product to Customer's or its customers' vessels.

C.6 Additional Services:

Operator shall perform the following additional services:

- a) Work with Customer to optimize the use of Operator's equipment, truck loading gantry, pipelines and tanks to increase loading and unloading rates through optimization of loading sequences and tank pipeline selection;
- b) Endeavor to allow vessels to pump at their maximum capacity;
- c) Those other services stipulated in this Agreement; and
- d) Such other services that are reasonably requested by Customer and agreed to in writing between the Parties.

D. THROUGHPUT

D.1 Allowed Throughput, Initial Fill and Batch Size:

Customer shall be entitled to an annual product throughput of 196,000 barrels or for a quantity equivalent to the total offer capacity defined in C.1. This product throughput is herein be referred to "Allowed Throughput"

Allowed Throughput will be calculated by adding the total number of barrels (at natural) received and shipped per contract year divided by 2.

The initial fill quantity of 196,000 barrels or equivalent to the awarded capacity shall be excluded from the allowed throughput calculation

D.2 Excess Throughput:

For volumes in excess of the allowed throughput, Excess Throughput Charges shall be calculated by adding the total number of barrels (at natural) received or shipped in a 12-month period above the allowed throughput quantity.

Sample Calculation:

Please refer to Exhibit A

E. CONSIDERATION

E.1 Fee:

Details of the Storage, Excess Throughput Fee, and Truck Loading Fee are as follows:

- a) Payment Period: Monthly, payable on the first (1st) working day of every month for the current month.
- b) Storage Rate for Agreement Term: \$ [REDACTED] Bbl/yr. The Periodic Annual Storage Rate will be as follows

Period	Per Annum	Per Month
01-Jan-2018 to 31-Dec-2018	\$ [REDACTED]	\$ [REDACTED]

- c) Excess Throughput Rate: \$0.25 per barrel for throughput quantity over the allowed throughput defined in D.1
- d) Truck Loading Fee: For product loading carried out through Operator's Truck Loading Gantry, a loading fee of \$100 shall be charged per truck.

F. PRODUCT MOVEMENT AND TESTING

- a) Operator personnel, trained and certified in conducting flash, API gravity and physical appearance tests, will provide field level testing or Product ID checks during transfer and receipt of Products as follows at no additional cost to Customer.
- b) The Operator shall, at its sole cost, perform Product ID checks and hourly monitoring during Product transfer and receipt. Product ID checks and hourly monitoring shall be performed by Operator personnel who are trained and certified to conduct Product ID checks and hourly monitoring.

- c) Tank recertification (i.e. full specification testing) shall be done by a third party after each Product receipt or transfer as required by Customer, for the account of Customer and arranged by Customer.
- d) For the avoidance of doubt, all vessel prior-to-discharge sampling and testing, as well as tank recertification after receipt and/or transfers, shall be arranged by Customer, conducted by a third party, and at Customer's cost; provided, however, that all other sampling and testing referred to in Sections F.(a)-(b) shall be done by Operator at its cost.

G. METHOD OF HANDLING LOSSES

- a) If after receipt of Customer's Product into Operator's receiving Facility results in Product storage or handling losses, the handling and accountability of such will be as follows:
 - Customer will absorb ordinary storage and handling losses up to one fourth (1/4) of one percent (1%) of annual throughput
 - Operator will be responsible for all ordinary storage and handling losses in excess of one fourth (1/4) of one percent (1%) of annual throughput of Product

For the avoidance of doubt, ordinary storage and handling losses shall not include oil spills or discharges as defined in Section 22 and other losses due to breach in the integrity of Operator facility and/or negligent acts of Operator personnel or its agents.

- b) Storage or handling losses shall be determined and settled based on the following:
 - Bases of Computing Losses: Net loss to be determined by monthly loss and gain calculations with cumulative losses and gains to be offset against each other at the time of settlement.
 - Time of Settlement: Shall be on an annual basis at the end of each calendar year; on the termination of the Agreement if such termination occurs prior to an anniversary; or as otherwise agreed.
 - Settlement Price Reference: Average of Mean of Platts Singapore (MOPS) under the heading Gasoil 10ppm for the calendar year plus seven United States dollars (USD) per barrel.
- c) The annual settlement shall be confirmed by auditors and undertaken through manual gauging.
- d) The handling loss accountability as set forth in Section G(a) shall only apply to ADO 10ppm or alternate products stored in Tank 1906.
- e) Section 6 of the Additional Terms and Conditions shall also apply.

H. TERM OF THE AGREEMENT

H.1 Term:

This Agreement will be in effect for a period beginning with an initial term from the Effective Date and ending on December 31, 2018 ("**Initial Term**"). The Customer shall be given the option to extend the term by five (5) years ("**Extended Term**") upon expiration of the Initial Term. The Terms and Conditions of the Extended Term shall be the same as the Initial Term. The Agreement shall be terminated by either party under the conditions set forth in clause H.2 of the Agreement.

H.2 Termination:

This Agreement may be termination prior to the Term expiration under the following conditions:

- a) upon written agreement of the Parties, which agreement shall provide, among other things, the effective date of termination; or

- b) by the Party not in default upon the occurrence of a material event of default, in accordance with the provisions of Section 16 of this Agreement; or
- c) upon closure of the Terminal or termination of any of Operator's pipeline easements that is material for the provision of services hereunder; or
- d) compulsory acquisition, governmental requisition, expropriation, intervention by relevant authorities or any similar occurrence which results in the closure of Operator's Terminal or termination of its pipeline easements or which materially and adversely affects the ability of the Parties to continue with this Agreement or the ability of Operator to operate the Terminal and/or the related pipelines; or
- e) upon one (1) year's notice by customer; or
- f) by Customer under Section 6 (Compliance with Laws and Regulations) of this Agreement; or
- g) by a Party in accordance with Section 15.5 (Force Majeure) of this Agreement

In the event of early termination under section G.2(e), above, Customer shall pay operator an amount equivalent to six months of the Storage fee defined in Section E.1(b).

In the event of termination, the Parties shall in good faith and as soon as practicable endeavor to agree on the manner of winding down. Until the effective date of termination, the Parties shall continue to have and to carry out all their rights and obligations as stated in this Agreement. Termination of this Agreement for any reason shall not be deemed a waiver of any of the Parties' rights and obligations existing before the effective date of termination.

I. TANK BOTTOMS AND LINE FILL

Customer accepts that product inventory is required to enable the Facility to be operated, including inventory for tank bottoms and to fill the pipelines. The working inventory shall be recovered and returned to Customer on termination of this Agreement at Operator's expense.

Customer will be responsible for leaving the tank empty and clean on termination or expiration of this Agreement.

J. NOTICE ADDRESSES:

Customer: Guam Power Authority
PO Box 2977, Hagatna, Guam 96910

Operator: Tristar Terminals Guam Inc.
P.O. Box 8210, Agat Guam 96928,

K. OPERATIONAL CONTACTS:

Customer: Jennifer G. Sablan (Terminal Contact)


Operator: KK Vikraman (Terminal Contact)

L. OTHER PROVISIONS

The Additional Terms and Conditions attached are part of this Agreement. All reference herein to the Agreement shall include the Additional Terms and Conditions.

Executed this 28th day of December 2017.

Customer:

 12/28/2017

By: JOHN J. CRUZ, JR., P.E.

Title: GENERAL MANAGER (A)

Operator:

 12-28-17

By: John Afleje

Title: Terminal Operations Manager