

**TEMPORARY POWER RENTAL AGREEMENT**

**BETWEEN**

**GUAM POWER AUTHORITY**

**AND**

**AGGREKO INTERNATIONAL PROJECTS LIMITED**

**FOR**

**Generation of 20 MW of installed capacity at 34.5 kV 60 Hz**

**For a period of 2 years**

**AT**

**Yigo CT, Guam**

**Contract no. GPA-RFQ-38586**

**Dated: 28 March, 2024**

THIS AGREEMENT is made on 28 March, 2024 between

AGGREKO INTERNATIONAL PROJECTS LIMITED, a company incorporated in Scotland, having its registered office at 8th Floor, 120 Bothwell Street, Glasgow, Scotland, G2 7 JS United Kingdom (hereinafter referred to as "Aggreko", which expression, unless the context requires otherwise, shall include its successors and permitted assignees); and

GUAM POWER AUTHORITY, a public corporation registered in the Guam, having its registered office at the Gloria B. Nelson Public Utilities Complex, 688 Route 15 Fadian, Mangilao, Guam, 96913 (hereinafter referred to as "Customer", which expression, unless the context requires otherwise, shall include its successors and permitted assignees).

#### WHEREAS

- A. The Customer has issued an Emergency Procurement under a Request for Quotation bearing no. RFQ# 38586 December 2023 for providing temporary power through the provision of temporary power generation equipment and services ("RFQ") for its Yigo Diesel Plant in Guam; and
- B. Aggreko is engaged in the business of providing temporary power generation equipment and services and had responded to the Request for Quotation by submitting a proposal for providing temporary power through the provision of temporary power generation equipment and services; and
- C. The Customer, upon evaluation of the submitted proposals, determined that Aggreko is the most qualified and responsive vendor to provide the services set forth in the Solicitation Requirements; and
- D. The Customer now requires Aggreko to provide temporary power to it through the provision of certain temporary power generation equipment and services; and
- E. Aggreko has agreed to provide such temporary power generation equipment and services to the Customer on the terms and conditions of this Contract and the Notice to Proceed dated 1 April, 2024.

NOW THEREFORE in consideration of the mutual covenants and consideration herein contained, the Parties agree as follows:

#### 1 INTERPRETATION

- 1.1 In this Contract the following words and expressions shall, unless the context otherwise requires, have the following meanings:

"Affiliate" shall mean any subsidiary, branch or parent or ultimate holding company or a subsidiary of such parent or ultimate holding company;

"Aggreko Personnel" shall mean all personnel provided by Aggreko in connection with the performance of this Contract;

"Applicable Law" means any decree, resolution, statute, act, order, rule, ordinance, law, decision, code, legislation, regulation (including any implementing regulation), treaty or directive (to the extent having the force of law), and Consents as in force from time to time;

"Authority" shall mean the Government, or any ministry, department or political subdivision thereof, any court or tribunal or any governmental entity, instrumentality, agency, authority, committee or commission, under the direct or indirect control of the Government, or any department or political subdivision thereof, or any independent regulatory authority relating thereto, having jurisdiction under Applicable Law over Aggreko and/or the Customer;

"Claim" shall mean any and all claims, demands, liens, judgments, awards, remedies, debts, liabilities, damages, injuries, costs, losses, legal and other expenses, or causes of action of whatsoever nature;

"Capacity Charge" shall mean the fixed charge payable in US Dollars by the Customer to Aggreko in respect of the provision of the Plant and Services during the Operational Service Period;

"Change in Law" shall mean the occurrence of any of the following after Signature Date in the Guam:

- (a) the enactment, promulgation, execution, ratification, issue or coming into force of any new Applicable Law or Consent;
- (b) the change, amendment, alteration, modification, repeal or change in interpretation or application of any existing Applicable Law by any competent court or Authority of any Applicable Law; or
- (c) the imposition of a new requirement for a Consent or, after the grant of any Consent, a change in the terms and conditions attaching to such Consent or the attachment of any new terms or conditions (including terms relating to renewal of an existing Consent), provided such change in the terms and conditions is not due to breach of an Applicable Law by Aggreko or its Affiliates (including their respective contractors, directors, officers or employees);

"Change Order" shall mean a written instrument to Aggreko signed by the Customer authorizing an addition, deletion, or revision in the Plant or services, or an adjustment in the purchase order price or the delivery time, issued after the effective date of the Contract;

"Commercial

Operation Date" shall mean the date that the Plant is commissioned by Aggreko and has the capacity to produce electrical energy;

"Consents" shall mean any permit, consent, approval, authorization, certificate, waiver, clearances or license which must be obtained from any person (including private persons and any Authority) in order for this Contract to be performed;

"Contract" shall mean this agreement, as the same may be amended or varied in accordance with its terms and shall include all Schedules and Attachments;

"Contract Maximum Demand" shall mean 20 MW;

"Dispute" shall mean any and all disputes, controversies or Claims arising out of or relating to this Contract or the breach, termination or invalidity thereof;

"Early Power Charge" shall mean the fixed charge payable in US Dollars by the Customer to Aggreko in respect of the provision of the Plant and Services prior to the Operational Service Period;

"Effective Date" shall mean the date when the 2 (two) conditions (Mobilization Charge and Payment Bank Guarantee) specified in Clauses 2.4.1 and 2.4.2 have been met;

"Energy Conversion Charge" shall mean the amount payable in US Dollars by the Customer to Aggreko in respect of the electrical energy produced by the Plant;

"Event of Default" shall mean when one of the grounds for termination in accordance with Clause 20 has been met or any matter described as an Event of Default in this Contract;

"Extended Operational Service Period" shall have the meaning set out in Clause 2.5;

"Fixed O&M Charge" shall mean the fixed amount payable in US Dollars by the Customer to Aggreko in respect of the operation and maintenance of the Plant;

"Forced Outage" shall mean the removal of service availability of the Aggreko installation for emergency reasons for equipment within Aggreko's Scope of Supply;

"Forced outage rate" shall mean  $FOR = ((\text{Period of time within any month in hours when no supply is available}) / \text{numbers of hours in the month}) \times 100\%$

"Force Majeure" shall have the meaning set out in Clause 19.1;

"Fuel" shall mean ultra-low sulfur diesel (ULSD) fuel meeting the Operating Products Specifications;

"Government" shall mean the Government of the United States of America, or where applicable, any state, regional or local government or authority, inclusive of any ministry, department, agency, authority or other entity controlled by the same;

"Government Tax Authority" shall mean any local or national government or authority of any country, competent to levy any Tax;

"Minimum Operational Service Period" shall have the meaning set out in Clause 20.1.6;

"Mobilization" shall mean activation of logistics for procurement, transportation and shipment of the Plant, and employment contract for the project team including all associated costs.

"Month" shall mean a month according to the Gregorian Calendar, and "Monthly" shall be construed accordingly.

"Operational Service Period" shall have the meaning set out in Clauses 2.2, 2.5 and 2.6 and shall include any Extended Operational Service Period;

"Operating Products Specifications" shall mean the fuel specifications set out in Schedule 5;

"Party" shall mean either the Customer or Aggreko as the context so permits and, as expressed in the plural, shall mean the Customer and Aggreko collectively;

"Performance Guarantee" shall mean the performance guarantee referred to in 4B;

"Plant" shall mean the plant, equipment, materials and supplies provided by Aggreko in connection with the performance of this Contract, or any part thereof including, without limitation, the items detailed in Schedule 3 - Scope of Work and all spare

parts and consumables necessary for performance of the Services. For avoidance of doubt, any existing generators (operational or non-operational) as owned by Customer shall not form any part of the Plant.

"Scope of Work" shall mean the scope of work set out in Schedule 3 - Scope of Work and any amendment thereto made in accordance with the terms of this Contract;

"Schedule(s)" shall mean the schedule(s) to this Contract as referred to numerically and exhaustively therein;

"Scheduled Commercial

Operation Date" shall mean the date in accordance with Clause 2.8;

"Services" shall mean the services and/or work to be performed by Aggreko as provided for under this Contract, including, without limitation, the performance of the Scope of Work and the provision of the Plant and any supporting activity in respect thereof;

"Signature Date" shall mean date that this Contract is signed by the Parties on the same date or on the latest date of signature if this Contract is signed by the Parties on different dates;

"Site" shall mean the operating site at Yigo Diesel Plant, Guam where Aggreko is performing the Services and/or any supporting activity in respect thereof and includes the fenced area, lay down area, transport storage area, lifting equipment area, accommodation area and general storage area on which the Plant shall be located;

"Specification" shall mean those requirements regarding the standard of the Plant, as set out in the Scope of Work;

"System availability" shall mean the percentage of time, the installation is capable of supplying the Contract Maximum Demand (20 MW), irrespective of whether this demand is called for by the customer. This is defined as:

$$(((\text{Total hours in month}) - (\text{hours in month output capacity} < \text{Contract Maximum Demand})) / \text{Total hours in month}) * 100\%$$

"Tax" shall mean direct and indirect taxes, levies, duties, fees, charges and contributions that are due in accordance with the Applicable Law arising out of the performance of this Contract or the income derived therefrom and any interest thereon;

"Temporary Storage Area" shall refer to the adjacent location to the existing Yigo Diesel Plant identified by the Customer for the purpose of relocating the existing infrastructure and equipment from Yigo Diesel Plant.

"Week" shall mean a period of seven days.

"Year" shall mean a period of 365 (three hundred and sixty-five) days for non-Leap years and 366 (three hundred and sixty-six) days for Leap years.

1.2 Words denoting the singular shall include the plural and vice versa, where the context requires.

1.3 The documents comprising this Contract are complementary of one another, but in case of ambiguities, discrepancies or inconsistencies among them, the following order of priority shall apply:

1.3.1 Clauses 1 to 32 (inclusive) of this Contract;

1.3.2 Schedule 1;

1.3.3 Schedule 2;

1.3.4 Schedule 3;

1.3.5 Schedule 4;

1.3.6 Schedule 5;

1.3.7 Schedule 6.

1.3.8 Schedule 7;

1.3.9 Schedule 8;

1.3.10 Attachment 1;

1.3.11 Attachment 2- and all Amendments;

## 2 DURATION

2.1 In consideration of the payments to be made to Aggreko by the Customer for the Services to be supplied hereunder, Aggreko hereby agrees to duly provide the Services to the Customer in accordance with the Specification in all material respects.

2.2 Unless this Contract is terminated earlier in accordance with Clause 19 (Force Majeure) or Clause 20 (Termination), the operation service period of the Plant shall commence on the Commercial Operation Date and shall continue for 2 (two) Years (the "Operational Service Period").

- 2.3 On the Signature Date, only Clause 1 (Interpretation), this Clause 2 and Clauses 22 (Confidentiality and Publicity) to 32 (Wages & Benefits) (inclusive) will become effective.
- 2.4 The remaining provisions of this Contract, including any obligation on Aggreko to provide the Services to the Customer and any obligation to ship, book shipping of the Plant or operate the Plant will not become effective until the following conditions have been fulfilled by Customer or waived in writing by Aggreko:
- 2.4.1 Mobilization Charge has been paid to Aggreko;
- 2.4.2 the original Payment Bank Guarantee has been delivered to Aggreko or the advance payment deposit has been made in accordance with Clause 4A;
- In the event that such conditions are not fulfilled by the Customer or waived by Aggreko or by such later date as Aggreko may in its absolute discretion determine, Aggreko may by notice charge a reservation fee of [US\$15,000] per Week and capped to a total aggregate of US\$120,000 in respect of the Plant or terminate this Contract in which case the Customer shall pay a termination fee as per Clause 20.
- 2.5 The Customer shall have the right to request for an extension of the Operational Service Period, for a period to be mutually agreed in writing between the parties (the "Extended Operational Service Period"), provided always that the Customer shall provide Aggreko with at least 3 (three) Months' written notice before the end of the Operational Service Period or the then-current Extended Operational Service Period for such Plant, as the case may be. For the avoidance of doubt, Aggreko shall reserve the right to a pricing revision in the event of any request by Customer of an extension of the Operational Service Period or the then-current Extended Operational Service Period for such Plant, as the case may be and that neither party shall be bound by any request for an extension in the event that parties are not able to mutually agree upon the price revision for the extended period.
- 2.6 Unless the Operational Service Period is extended by the Parties in accordance with Clause 2.5, or is terminated earlier in accordance with Clause 19 or Clause 20, the Operational Service Period shall expire automatically without notice at its end or at the end of an Extended Operational Service Period.
- 2.7 In the event that the Plant is capable of producing power prior to commencement of the Operational Service Period and such power is delivered to the Customer, then the Customer shall pay the Early Power Charge in respect of such power, pro-rated for the time period between the date of production of power and the Scheduled Commercial Operation Date. It is clarified for the avoidance of doubt that the Early Power Charge



equivalent to the Monthly Capacity Charge shall be pro-rated if the Plant is available for operation at less than the Contract Maximum Demand.

- 2.8 The Parties agree that the Scheduled Commercial Operation Date for the Aggreko Plant shall be 100 days from the Effective Date. The commissioning of the GPA plant and the delivery by the Customer of the GEPA Title V Permit, with the assumption this is an extension to the previous condition, is the responsibility of the Customer and is not included in Aggreko's 100 day delivery plan. The delivery of the GEPA Title V Permit is an obligation prior to initiating COD.

### 3 PAYMENT

- 3.1 The Customer shall pay Aggreko for the Services in accordance with this Clause 3 and as set out in Schedule 1 - Compensation.
- 3.2 Aggreko shall submit to the Customer within 3 (three) business days from the Signing Date an invoice for the Mobilization Charge and Customer shall make such payment to Aggreko within 7 (seven) business days from the invoice date.
- 3.3 For all other charges payable by the Customer, Aggreko shall submit to the Customer an invoice by the 10<sup>th</sup> day of the current Month detailing the amounts payable to Aggreko under this Contract in respect of the preceding Month.
- 3.4 The Customer will have a period of 5 (five) business days from the date of any invoice to review the invoice and to communicate in writing to Aggreko any disputed amounts or calculations that the Customer deems inconsistent with the terms of this Contract (each, an "Invoice Dispute"). If the Customer fails to provide Aggreko with notice of an Invoice Dispute within this period, the Customer shall be deemed to have accepted such invoice.
- 3.5 The Customer shall pay each invoice submitted by Aggreko within 30 (thirty) days of the date of the receipt of the invoice unless such invoice is subject to an Invoice Dispute, in which case the Customer shall be obligated to pay the undisputed portion of the invoice within such 30 (thirty) day period, and to pay the remaining disputed portion of the invoice, which is determined to be due, within 5 (five) business days after the resolution of the Invoice Dispute. Any Invoice Dispute will be promptly reviewed by Aggreko with the Customer and any resulting adjustments, if agreed upon in writing by the Parties, will be applied to the invoice in question. If any Invoice Dispute is not resolved by the Parties within 10 (ten) business days after the notice of an Invoice Dispute is delivered by the Customer to Aggreko, the Invoice Dispute shall be resolved through the dispute resolution process provided in Clause 24 of this Contract.

- 3.6 The Customer shall pay each invoice submitted by Aggreko in US Dollars in immediately available funds to a bank account of Aggreko nominated in writing by Aggreko. Aggreko may at any time direct the Customer to make payments into any other account of Aggreko which can be opened in the books of any other U.K. bank to which the Customer is able to make direct wire transfer payments on a timely basis.
- 3.7 Without limiting any other right or remedy of Aggreko and in addition to Aggreko's rights and remedies set out in Clauses 10.2 and 20.3, if the Customer fails to make any payment due to Aggreko under this Contract by the due date for payment set out in Clause 3.5 ("Due Date"), Aggreko shall have the right to:
- 3.7.1 charge interest on the overdue amount at the rate of 6% per cent per annum accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount together with any interest accrued, whether before or after judgment, and compounding quarterly;
- 3.7.2 suspend all or part of the Services until payment has been made in full. In the event of such suspension, Aggreko shall continue to charge interest on overdue amounts and to charge Capacity Charges and the Customer agrees to pay such interest and full Capacity Charges to Aggreko throughout such period of suspension; and/or
- 3.7 The Customer shall pay all amounts due under this Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Aggreko in order to justify withholding payment of any such amount in whole or in part.

#### 4 GUARANTEES

##### 4A. Payment Bank Guarantee or Standby Letter of Credit

- 4A.1 As security for its financial obligations under this Contract, and as a condition precedent to this Contract, prior to Mobilization of the Plant from the Aggreko Equipment Nominated Depot the Customer shall either (i) make an advance cash payment by deposit into a bank account nominated by Aggreko in writing for the maximum amount of US\$500,000 (five hundred thousand US Dollars) being the equivalent of 4 (four) Weeks' Capacity Charges or (ii) procure the issue of and deliver to Aggreko an irrevocable on demand bank guarantee in the form set out in Schedule 6 (*Form of Payment Bank Guarantee*) (the "Payment Bank Guarantee").
- 4A.2 The bank guarantee shall be issued by an international bank acceptable to Aggreko at the time of issue with the Required Credit Rating for the maximum amount of US\$500,000

(five hundred thousand US Dollars), which amount or part thereof will be paid forthwith upon first demand of Aggreko in accordance with the Payment Bank Guarantee.

4A.3 Except where the advance cash deposit has been made in accordance with Clause 4A.1 above, the Customer shall maintain the Payment Bank Guarantee valid throughout the Operational Service Period and until such time as the Plant and each part thereof has been returned safely to the Aggreko Equipment Nominated Depot and the payment obligations of the Customer have been discharged in full.

4A.4 If the issuer of the Payment Bank Guarantee:

4A.4.1. has duly served notice that the expiration date thereof will not be extended from its then current expiry date and/or such Payment Bank Guarantee has not been replaced by the Customer, by the date 30 (thirty) Business Days prior to the then current expiry date; or

4A.4.2 ceases to have the Required Credit Rating, and the Customer has failed to procure, within 10 (ten) Business Days of the issuer's credit rating downgrade, the issue of a replacement Payment Bank Guarantee complying with this Clause 4A,

then Aggreko may make a demand on the Payment Bank Guarantee in accordance with the Payment Bank Guarantee and retain such amounts in a bank account as security against the Customer's financial obligations under this Contract. The occurrence of either event envisaged in Clauses 4A.4.1 or 4A.4.2 shall also constitute an Event of Default.

4B. Performance Guarantees

4B.1 Aggreko shall utilize best operation and maintenance practices to accomplish the performance guarantees for the Services including:

- a. System availability greater than 95% nominal;
- b. Forced Outage Rate less than 2% nominal or unavailability less than 5%;
- c. Net Heat Rate not greater than 10,300 Btu/KWh (HHV), run in the emissionized mode with a maximum ambient temperature of 88 degrees Fahrenheit, and a maximum altitude of 254 feet above sea level, at the connection point.

4B.2 It is agreed between the Parties that in the event Aggreko fails to meet the performance standards specified in this Clause 4B.1(a) and (b), then Aggreko's invoice shall be reduced by the amount of shortfall.

4B.3 In the event that the Plant fails to meet the Net Heat Rate, as per Clause 4B.1(c), Aggreko shall reduce its invoice to the Customer by the difference between the verified measured

fuel consumption and 10,300 Btu/KWh (HHV) x the actual kilowatt hours (kwh) generated in the calendar month ÷ Heating Value of the Customer's ULSD fuel x the fuel price (\$/bbl) paid by the Customer for Plant. It is clarified that the total Net Heat Rate penalty shall be capped at \$300,000 during the Operational Service Period. The Parties shall undertake an annual performance test within a month prior to the COD anniversary to determine the performance of the Plant.

## 5 THE PLANT

- 5.1 Erection, commissioning and dismantling of the Plant shall be performed by Aggreko Personnel with the reasonable assistance of the Customer in arrangement of unskilled labor, craneage and transport paid for by Aggreko.
- 5.2 Aggreko confirms that the Plant shall comply with the Specification. The Customer shall check the Specification and the designs and drawings submitted by Aggreko for errors, omissions and to ensure compliance with the requirements of this Contract. The Customer acknowledges that the Specification and the designs and drawings provided by Aggreko to the Customer are based on the accuracy of the information and documentation provided by the Customer to Aggreko. As such, Aggreko shall not be responsible for any damages, deficiencies, incomplete works, variations or additional costs caused or necessitated by incomplete or inaccurate information and documentation provided by the Customer or the failure by the Customer to provide such information and documentation on a timely basis to Aggreko. Any such changes required to make good the deficiencies will be covered by a Change Order.
- 5.3 Aggreko shall supply and connect to the Customer system at its own cost all high-voltage cables.
- 5.4 The Customer shall provide a main earthing connection terminal point for Aggreko to connect the Plant at the Customer's cost.
- 5.5 Aggreko shall ensure that Aggreko's operational base at the Site is at all times stocked with spare parts for the Plant to meet the requirements of this Contract.
- 5.6 Aggreko shall have the right to carry out routine service, maintenance and repairs for the Plant and shall notify the Customer at least 7 (seven) days in advance of any such activities. Aggreko shall make reasonable attempts to perform routine service, maintenance and repairs so as to minimize downtime. Capacity Charges shall continue to accrue during any period of downtime due to routine service, maintenance and repairs of transformers or switchgear.

5.7 In the event of a total loss or irreparable failure of any part of the Plant during the term of this Contract, Aggreko shall, immediately upon notification by the Customer forthwith make a replacement available at Aggreko's nominated depot. In the event that such loss or irreparable failure has been caused by the Customer, the Customer shall be responsible for the cost of transporting such replacement Plant to the Site. In the event the total loss or irreparable failure is attributable to Aggreko, then Aggreko shall be responsible for the transportation.

5.8 The Customer acknowledges and agrees that the Plant is the exclusive property of Aggreko, unless otherwise agreed between the Parties, and undertakes:

5.8.1 not to lease, lend or dispose of the Plant in any way;

5.8.2 not to infringe against Aggreko's rights of ownership of the Plant;

5.8.3 to protect the Plant against any attachment, confiscation or any other enforcement procedure under Applicable Law and to inform Aggreko of any threatened attachment, confiscation or any other enforcement procedure without delay; and

5.8.4 not to repair, improve, move, interfere with, deface, or otherwise interact or attempt to interact with the Plant, without the express written consent of Aggreko.

5.9 Except as set out in this Contract, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Contract.

## 6 IMPORTATION AND EXPORTATION OF THE PLANT

6.1 Aggreko is responsible for the importation and exportation of the Plant into and out of Guam with the assistance of the Customer and shall further be responsible for clearing the Plant through customs and for ensuring that relevant importation and exportation documentation for the Plant is correct and stored safely for the duration of this Contract.

6.2 All charges, customs examination expenses, clearance costs and charges set out in the Applicable Law relating to the importation and/or exportation of the Plant will be paid by Aggreko including all demurrage costs and storage costs incurred during the importation/exportation process. The Customer shall provide all reasonable assistance to Aggreko in the process of importation and/or exportation of the Plant.

## 7 AGGREKO PERSONNEL

- 7.1 Subject to Clause 7.4, Aggreko shall provide and keep available for the Services the Aggreko Personnel who will operate and maintain the Plant with the assistance of additional manpower provided by the Customer. The number of Aggreko Personnel deployed on the Site shall be in accordance with Schedule 8 – Aggreko Personnel. The Aggreko Personnel deployed on Site shall be dependent on the number of hours the Plant is in operation.
- 7.2 Aggreko shall provide accommodation and food to all Aggreko Personnel visiting the Site throughout the duration of this Contract together with access to telephone, fax and e-mail facilities for business communications. Aggreko shall also provide a kitchen diner, a mess hall, ablution facilities and laundry facilities to which Aggreko Personnel shall have full access.
- 7.3 Aggreko shall ensure that the Aggreko Personnel shall be sufficient in number and quality to carry out the Services in accordance with the terms and conditions of this Contract and will be suitably qualified to perform the tasks required to complete the Services.
- 7.4 Aggreko may, at any time during the term of this Contract including after the commencement of the Services and at its sole discretion, remove any member of the Aggreko Personnel from the Site and shall, as soon as reasonably practicable, replace such person with another person suitably qualified.
- 7.5 Aggreko, along with reasonable assistance from the Customer, shall be responsible for and bear the cost of obtaining all visas, work permits, entry permits and other Consents (including clearance from the Government where applicable) required to enable Aggreko's Personnel to proceed to and work at the Site.

## 8 TRANSPORTATION

- 8.1 Aggreko shall be responsible for transporting the Plant from Aggreko's nominated depot to the Site and following termination of this Contract for transporting the Plant from the Site to Aggreko's nominated depot.
- 8.2 On both the outward (from Aggreko's nominated depot to the Site) and return (from the Site to Aggreko's nominated depot) journeys Aggreko shall be responsible for all handling, loading and unloading of the equipment at Guam port and all costs thereof, including the cost of craneage and inland transport for all spare parts, consumables and other materials required for maintenance of the Plant throughout the service period.

- 8.3 Aggreko shall be responsible for all travel arrangements for Aggreko's Personnel required in connection with the performance of the Services.

## 9 APPLICABLE LAW

Aggreko shall have the right to make any changes to the Plant or Services which are necessary to comply with Applicable Law or a change in the Applicable Law, including any safety or environmental requirements, and which affect the Services (nature, quality, etc.), and Aggreko shall notify the Customer in any such event. No amendment or variation to this Contract will be required for Aggreko to undertake such changes in accordance with this Clause.

Neither party shall be liable for any breach of this Contract resulting from a Change in Law.

The Customer shall pay any expenses and increase in costs to Aggreko occasioned by Aggreko complying with the Applicable Law or with a Change in Law under this Clause, including the payment of any local taxes. Such expenses and costs shall be properly vouched by Aggreko and shall be paid for by the Customer within 30 (thirty) days of invoicing.

## 10 CUSTOMER RESPONSIBILITIES

- 10.1 The Customer shall comply with its obligations as set out in this Contract in all material respects.

- 10.2 If Aggreko's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer and/or if any Event of Default occurs, claims for money damages arising out of a procurement contract are to be resolved through the process set out in Guam's procurement law and Guam's Government Claims Act. All other disputes are to be resolved in the process set out in Guam law to include referral to the Office of the Public Auditor. .

10.2.1 Aggreko shall without limiting its other rights or remedies have the right to suspend performance of all or part of the Services until such act or omission or Event of Default is remedied by the Customer;

10.2.2 Aggreko shall charge, and the Customer shall agree to pay Capacity Charges/ Energy Conversion Charges throughout any such period of prevention or delay.

## 11 SITE

- 11.1 Aggreko, along with reasonable assistance from the Customer, shall prepare and maintain the Site and all civil works for the erection and operation of the Plant at its own expense. The security arrangements, to be undertaken from the Commercial Operation Date onwards, for such Site works, including the erection of a security fence with lockable gate enclosing the Plant, shall be the responsibility of the Customer, to be undertaken at its own expense. The Site works will become the property of the Customer after expiry or upon termination of this Contract. It is clarified for the avoidance of doubt that for any incidental requirements with respect to the Site, the Customer shall provide assistance to Aggreko to ensure that the Site works can be undertaken.
- 11.2 Aggreko shall undertake the removal, relocation and reconnection of the existing operational GPA generator units maintained and owned by Customer to the area of the Yigo Diesel Plant specified by the Customer.
- 11.3 Aggreko shall be responsible for the removal and relocation of all non-operational generator units maintained and owned by Customer and other specified existing infrastructure and equipment, as designated by the Customer, from Yigo Diesel Plant to the Temporary Storage Area.
- 11.4 Customer acknowledges that save for the removal , relocation and reconnection, as required to be undertaken by Aggreko under Clause 11.2 and 11.3 above, all existing generators units (operational or non-operational) are maintained and owned by Customer and that Aggreko shall not be responsible for any liability arising from these existing generators unless such liability arises from the negligent act/omission of Aggreko in the course of its removal and relocation, as required to be undertaken by Aggreko under Clause 11.2 and 11.3 above. Customer agrees that it shall indemnify Aggreko against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred from any such claims and actions arising from the use of Customer's existing generators units to be installed or stored at Site.

## 12 OPERATING PRODUCTS

- 12.1 The Customer shall be responsible for the supply of Fuel to the Plant in accordance with the Operating Products Specifications.
- 12.2 In the event that the Fuel supplied to the Plant by the Customer does not meet the Operating Products Specification or in the event that the supply of any of these items is interrupted or prevented from reaching the plant for any reason whatsoever ("Fuel Default"), Aggreko may:



12.2.1 suspend performance of all or any part of the Services until such time as the Fuel Default has been remedied; and/or

12.2.2 rely on this Clause 12 to relieve it from the performance of any of its obligations to the extent that the Fuel Default prevents or delays Aggreko's performance of any of its obligations; and/or

12.2.3 charge full Capacity Charges to the Customer irrespective of the fact that the Services cannot be provided in full or in part as a result of the Fuel Default.

### 13 HEALTH, SAFETY AND ENVIRONMENT

13.1 Aggreko shall observe and comply with the health, safety and environmental requirements set out in the Scope of Work.

13.2 It shall be Aggreko's obligation to determine at all times whether the Services can be safely continued or undertaken including, without limiting the generality of the foregoing, determining by Aggreko's own inspection that the Plant is loaded and/or stored in a proper and safe manner and that the Plant is in all respects suitable to undertake the Services in the then-existing conditions.

13.3 Aggreko shall ensure that all waste originating from the Plant or Services will be collected promptly in a place at the Site suitable for ready and prompt removal. The Customer shall be responsible for disposal of waste including used engine oil, drums, hazardous waste and filters, in a manner that meets the requirements of Applicable Law. The costs of such disposal shall be paid for by the Customer.

13.4 Notwithstanding any other provisions of this Contract, Aggreko shall be entitled in the event of any emergency (including, without limitation, in the event of an explosion, fire or other circumstances beyond its control), with immediate effect, to direct Aggreko Personnel to vacate the Site and to deal with the Plant as it considers fit.

13.5 Aggreko shall comply with the requirements of the Guam Environmental Protection Agency (GEPA) Title V permit.

### 14 VARIATION AND AMENDMENT

14.1 Change Order. By a written order, at any time, and without notice to surety, the Customer may, subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:

14.1.1 Drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the Customer in accordance therewith;

14.1.2 method of shipment or packing; or

14.1.3 place of delivery.

14.2 Adjustments of Price or Time for Performance. If any such change order increases or decreases Aggreko's cost of, or the time required for performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this Clause shall be determined in accordance with the Price Adjustment Clause of this Contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the territory promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

14.3 Time Period for Claim. Within 30 days after receipt of a written change order under Clause 14.1, unless such period is extended by the Customer in writing, Aggreko shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar Aggreko's claim unless the Customer is prejudiced by the delay in notification.

14.4 Claims Barred After Final Payment. No claim by Aggreko for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this Contract.

14.5 Other Claims not Barred. In the absence of such a change order, nothing in this Clause shall be deemed to restrict Aggreko's right to pursue a claim arising under the Contract if pursued in accordance with the Clause entitled, 'Claims Based on the Customer's Actions or Omissions, Notice of Claim Clause', or for breach of contract.

14.6 Notwithstanding any other provisions of this Contract, Aggreko shall be entitled to change any part of the Plant at any time provided always that Aggreko generates continuous electrical power as defined in the Scope of Work - Schedule 3.

## 15 TAXATION

15.1 Each Party shall be responsible for:

- 15.1.1 the payment of all Taxes now or hereafter levied or imposed by any Government Tax Authority on it or on its Personnel in respect of any wages, salaries and other remuneration paid directly or indirectly to persons engaged or employed by it;
  - 15.1.2 the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the actual/assumed profits and gains made by such Party;
- 15.2 If, after the Effective Date of this Contract, there is any change in the Applicable Law which results in a change in the rate of any Tax included in Aggreko's prices or rates or the introduction of a new Tax and such change results in an increase in the cost to Aggreko of performing this Contract then the Parties shall agree to a revision in pricing upwards to reflect such change.

## 16 INDEMNITIES

### 16.1 Claims Based on the Customer's Actions or Omissions.

- 16.1.1 Notice of Claim. If any action or omission on the part of the Customer requiring performance changes within the scope of the Contract constitutes the basis for a claim by Aggreko for additional compensation, damages, or an extension of time for completion, Aggreko shall continue with performance of the Contract in compliance with the directions or orders of the Customer, but by so doing, Aggreko shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- 16.1.1.1 Aggreko shall have given written notice to the Customer:

- 16.1.1.1.1 prior to the commencement of the work involved, if at that time Aggreko knows of the occurrence of such action or omission;

- 16.1.1.1.2 within 30 days after Aggreko knows of the occurrence of such action or omission, if Aggreko did not have such knowledge prior to the commencement of the work; or

- 16.1.1.1.3 within such further time as may be allowed by the Customer in writing.

This notice shall state that Aggreko regards the act or omission as a reason which may entitle Aggreko to additional compensation, damages,

or an extension of time. The Customer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Customer.

16.1.1.2 the notice required by Clause 16.1.1 describes as clearly as practicable at the time the reasons why Aggreko believes that additional compensation, damages, or an extension of time may be remedies to which Aggreko is entitled; and

16.1.1.3 Aggreko maintains and, upon request, makes available to the Customer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

16.1.2 Limitations of Clause. Nothing herein contained, however, shall excuse Aggreko from compliance with any rules of law precluding the Customer and Aggreko from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

16.1.3 Adjustments of Price. Any adjustment in the contract price made pursuant to this Clause shall be determined in accordance with the Price Adjustment Clause of this Contract.

16.2 Any claims resulting from pollution and/or contamination including but not limited to noise pollution and gaseous emissions, which originates, arises out of or in connection with the performance of this Contract, are governed by Guam procurement law and the Government Claims Act of Guam. To the extent permitted by Applicable Law, the Customer, as the Party responsible for allocation of the Site, assumes responsibility for any Claim resulting from pollution and/or contamination including but not limited to noise pollution and gaseous emissions, which originates, arises out of or in connection with the performance of this Contract, unless such Claim has directly resulted from a breach by Aggreko of its express obligations hereunder.

## 17 LIMITATION OF LIABILITY

17.1 Notwithstanding any provision to the contrary in this Contract and to the fullest extent permitted by Applicable Law, Aggreko shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of production, loss of revenue, financial loss or for any indirect or consequential loss in each case, arising under or in connection with this Contract.

17.2 Notwithstanding any provision to the contrary in this Contract and to the fullest extent permitted by Applicable Law, Aggreko's total liability to the Customer in respect of all other losses, damages and penalties arising under or in connection with this Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of this Contract by Aggreko, its employees, agents or subcontractors shall not exceed 75% of the aggregate value of the annual value of all Capacity Charges payable by the Customer to Aggreko under this Contract.

## 18 INSURANCE

18.1 Aggreko shall procure and maintain, at its sole expense, in full force and effect throughout the duration of this Contract, the insurances set out below: -

18.1.1 Employers Liability and/or Workers' Compensation insurance with a limit of not less than US\$100,000 per occurrence. GPA shall be named as additional insured and waiver of subrogation shall be in favor of GPA as an endorsement to the Workers Compensation Policy;

18.1.2 Comprehensive General Third Party Liability insurance with a limit of not less than US\$5,000,000 per occurrence. GPA shall be named as additional insured and waiver of subrogation shall be in favor of GPA as an endorsement to the Comprehensive General Liability Policy. GPA shall be named as additional insured and waiver of subrogation shall be in favor of GPA as an endorsement to the Comprehensive General Liability Policy;

18.1.3 Any other insurance which Aggreko is obliged to cover under Applicable Law.

18.1.4 Aggreko agrees to include the Customer as an additional insured and agrees to waive the right of subrogation on the abovementioned insurance.

18.2 Each Party shall afford the other all such reasonable assistance as may be required for the preparation and negotiation of insurance claims.

## 19 FORCE MAJEURE

19.1 With the exception of payment obligations on the part of the Customer, neither Party shall be liable to the other Party as a result of any delay or failure to perform its obligations under this Contract as a result of unforeseeable events, circumstances or causes beyond its reasonable control ("Force Majeure") and each Party shall be relieved from the consequences of its failure to perform that obligation, to the extent that such failure arises

as a result of the event of Force Majeure. In such circumstances the time for performance by the affected Party of its obligations shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

19.2 The term "Force Majeure", as used in this Contract, shall include but not be limited to:

19.2.1 riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, civil commotion, rebellion, revolution, military invasion; or

19.2.2 ionizing radiation or contamination by radioactivity from any nuclear waste, or radioactive, toxic, explosive or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof (other than arising out of any radiation source used by Aggreko in relation to the Services); or

19.2.3 any epidemic, pandemic (including coronavirus COVID-19), plague, lightning, earthquake, tempest, flooding, fire, cyclone, hurricane, typhoon, tidal wave, whirlwind, storm, volcanic eruption and other unusual and extreme adverse weather or environmental conditions or action of the elements, meteorites, collision or impact by any vehicle, vessel or aircraft or objects falling from aircraft or other aerial devices or the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speed; or

19.2.4 fire or explosion (being fire or explosion not caused by the negligence of the affected Party or its subcontractors); or

19.2.5 acts of Government which could not have been reasonably anticipated or controlled which makes performance impossible or impracticable.

19.3 The Party prevented from performing due to Force Majeure shall promptly notify the other Party of the nature and anticipated duration thereof and shall use all reasonable endeavors to resume performance of this Contract as soon as reasonably possible. The Party prevented from performing due to any such cause shall, in addition, furnish the other Party with such information in respect of such cause as the other Party may reasonably require.

19.4 If Aggreko suspends, totally or partially, performance of the Services under this Contract as a result of an event of Force Majeure and/or the Customer's failure to fulfill any of its obligations under this Contract, then Aggreko shall be entitled to extend the Operational

Service Period for a period of time equivalent to the period for which performance of the Services has been suspended.

- 19.5 Should any circumstance of Force Majeure continue for a period equal to or more than fourteen (14) days then either Party may terminate this Contract with immediate effect by notice in writing to the other Party. The Customer's liability in respect of such termination shall be to pay to Aggreko all sums properly due to Aggreko under this Contract in respect of the Services up to the date of termination.

## 20 TERMINATION

### 20.1 Termination for Convenience

20.1.1 Termination. The Customer may, when the interest of the Customer so requires, terminate this contract in whole or in part, for the convenience of the Customer. The Customer shall give written notice of the termination to Aggreko specifying the part of the contract terminated and when termination becomes effective.

20.1.2 Aggreko's Obligations. Aggreko shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Aggreko will stop work to the extent specified. Aggreko shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Aggreko shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Customer may direct Aggreko to assign Aggreko's right, title, and interest under terminated orders or subcontracts to the Customer. Aggreko must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

20.1.3 Right to Supplies. If applicable, the Customer may require Aggreko to transfer title and deliver to the Customer in the manner and to the extent directed by the Customer:

20.1.3.1 any completed supplies; and

20.1.3.2 such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as Aggreko has specifically produced or specially acquired for the performance of the terminated part of this Contract.

Aggreko shall, upon direction of the Customer, protect and preserve property in the possession of Aggreko in which the Customer has an interest. If the Customer does not exercise this right, Aggreko shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code of Guam, 13 GCA § 2706 (quoted at the end of this Clause). Utilization of this UCC Section in no way implies that the Customer has breached the contract by exercise of the Termination for Convenience Clause.

20.1.4 Compensation.

20.1.4.1 Aggreko shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data to the extent required by §3118 (Cost or Pricing Data) of the Guam Procurement Regulations bearing on such claim. If Aggreko fails to file a termination claim within one year from the effective date of termination, the Customer may pay Aggreko, if at all, an amount set in accordance with Clause 20.1.3.

20.1.4.2 The Customer and Aggreko may agree to a settlement provided Aggreko has filed a termination claim supported by cost or pricing data to the extent required by §3118 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the Customer, the proceeds of any sales of supplies and manufacturing materials under Clause 20.1.4.3, and the contract price of the work not terminated.

20.1.4.3 Absent complete agreement under Clause 20.1.2, the Customer shall pay Aggreko the following amounts, provided payments agreed to under Clause 20.1.2 shall not duplicate payments under this Clause 20.1.4.3:

20.1.4.3.1 contract prices for supplies or services accepted under the Contract;

20.1.4.3.2 costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that Aggreko would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;



20.1.4.3.3 costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Clause 20.1.4.2. These costs must not include costs paid in accordance with Clause 20.1.4.3.2;

20.1.4.3.4 the reasonable settlement costs of Aggreko including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid Aggreko under this Clause shall not exceed the total contract price plus the reasonable settlement costs of Aggreko reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Clause 20.1.2, and the contract price of work not terminated.

20.1.4.4 Cost claimed, agreed to, or established under Clauses 20.1.2 and 20.1.3 shall be in accordance with Chapter 7 (Cost Principles) of the Guam Procurement Regulations.

20.1.5 The Uniform Commercial Code (see Clause 20.1.3) states:

Title 13 GCA §2076. Seller's Resale Including Contract for Resale.

20.1.5.1 Under the conditions stated in 13 GCA § 2703 on seller's remedies, if applicable, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with incidental damages allowed under the provisions of 13 GCA § 2710, but less expenses saved in consequence of the buyer's breach.

20.1.5.2 If applicable, except as otherwise provided in Clause 20.1.5.3 or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms, but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

20.1.5.3 If applicable, where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.

20.1.5.4 if applicable, where the resale is at public sale:

20.1.5.4.1 If applicable, only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

20.1.5.4.2 If applicable, it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

20.1.5.4.3 If applicable, if the goods are not to be within the view of those attending the sale, the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and

20.1.5.4.4 if applicable, the seller may buy.

20.1.5.4.5 If applicable, a purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

20.1.5.4.6 If applicable, the seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller, 13 GCA § 2707, or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined in 13 GCA § 2711(3).

20.1.6 Further, the Customer shall provide Aggreko with an early termination fee which shall be equivalent to the maximum Capacity Charge for 20MW that would otherwise be payable by the Customer in respect of the entire Minimum Operational Service Period, 50% of the balance Fixed O&M Fee (in the event the Contract is terminated within the initial six months) or 30% of the balance Fixed O&M Fee (in the event the Contract is terminated after the initial six months) towards termination for convenience.

## 20.2 Termination for Default.

- 20.2.1 Default. If Aggreko refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this Contract, the Customer may notify Aggreko in writing of the delay or non-performance and if not cured in thirty days or any longer time specified in writing by the Customer, the Customer may terminate Aggreko's right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. It is clarified that Aggreko shall be paid all such amounts due to Aggreko until the termination. In the event of termination in whole or in part the Customer may procure similar supplies or services in a manner and upon terms deemed appropriate by the Customer. Aggreko shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- 20.2.2 Aggreko's Duties. If applicable, notwithstanding termination of the Contract and subject to any directions from the Customer, Aggreko shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Aggreko in which the Customer has an interest
- 20.2.3 Compensation. Payment for completed supplies delivered and accepted by the Customer shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by Aggreko and the Customer; if the parties fail to agree, the Customer shall set an amount subject to Aggreko's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations. The Customer may withhold from amounts due Aggreko such sums as the Customer deems to be necessary to protect the Customer against loss because of outstanding liens or claims of former lien holders and to reimburse the Customer for the excess costs incurred in procuring similar goods and services.
- 20.2.4 Excuse for Nonperformance or Delayed Performance. Except with respect to defaults of subcontractors, Aggreko shall not be in default by reason of any failure in performance of this Contract in accordance with its terms (including any failure by Aggreko to make progress in the prosecution of the work hereunder which endangers such performance) if Aggreko has notified the Customer within 15 (fifteen) days after the cause of the delay and the failure arises out of Force Majeure causes such as: acts of God; acts of the public enemy; acts of the Customer and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Aggreko shall not be deemed to be

in default, unless the supplies or services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Aggreko to meet the contract requirements. Upon request of Aggreko, the Customer shall ascertain the facts and extent of such failure, and, if such the Customer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Aggreko's progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the Customer under the Clause entitled "Termination". (As used in this Clause the term "subcontractor" means subcontractor at any tier.)

20.2.5 Erroneous Termination for Default. If, after notice of termination of Aggreko's right to proceed under the provisions of this Clause, it is determined for any reason that Aggreko was not in default under the provisions of this Clause, or that the delay was excusable under the provisions of Clause 20.2.4 (Excuse for Nonperformance or Delayed Performance), the rights and obligations of the parties shall, if the Contract contains a clause providing for termination for convenience of the Customer, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this Contract does not contain a clause providing for termination for convenience of the Customer, the Contract shall be adjusted to compensate for such termination and the Contract modified accordingly subject to Aggreko's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

20.2.6 Additional Rights and Remedies. The rights and remedies provided in this Clause are in addition to any other rights and remedies provided by law or under this Contract.

20.3 Aggreko may at any time terminate this Contract with immediate effect by giving written notice to the Customer if:

20.3.1 the Customer fails to pay any amount due under this Contract on the Due Date for payment and remains in default for more than 30 (thirty) days after the Due Date; or

20.3.2 the Customer commits a breach of any term of this Contract (other than failure to pay any amounts due under this Contract) and, if such breach is remediable, fails to remedy that breach within a period of 30 (thirty) days after being notified in writing to do so; or

20.3.3 the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

- 20.3.4 an event of total loss or irreparable breakdown of all or part of the Plant occurs which is not attributable to Aggreko; or
- 20.3.5 the Customer breaches any obligation undertaken in Clause 5.8 and, if such breach is remediable, fails to remedy that breach within a period of 7 (seven) days after being notified in writing to do so.
- 20.3.6 if the total Reservation Fee reaches the capped amount and the Effective Date hasn't occurred 7 days later.
- 20.4 In the event that either Party, at any time during the term of this Contract, becomes insolvent under any of the provisions of any applicable statute or makes a voluntary assignment of its assets for the benefit of creditors, is adjudged bankrupt, either upon its voluntary petition in bankruptcy or upon the petition of its creditors, or any of them, or should a judgment be executed on any of its goods or equipment, or if either Party shall have a receiver, administrator, administrative receiver and/or manager appointed in respect of all or any of its assets, an application or order is made or a resolution is passed to wind up either Party or if either Party shall go into liquidation (whether voluntarily or otherwise) or if either Party becomes subject, under the applicable laws of any jurisdiction, to any event having an analogous effect to any of the foregoing, the other Party may terminate this Contract with immediate effect by notice in writing to that Party or to the receiver or liquidator or to any person in whom this Contract may become vested.
- 20.5 The termination or expiry of this Contract shall be without prejudice to the rights and obligations of the Parties up to and including the date of such termination or expiry, and shall not affect or prejudice any term of this Contract that is expressly or by implication provided to come into effect on, or continue in effect after, such termination or expiry.
- 20.6 In the event of termination under any provision of this Contract, Aggreko shall promptly cease performance of the Services (or relevant part thereof) and shall remove all Plant and Aggreko Personnel from the Site. The Customer hereby authorizes Aggreko to enter the Customer's premises and take possession of all Plant in the event of termination. Until the Plant has been returned to Aggreko, the Customer shall be solely responsible for its safe keeping.
- 20.7 On termination of this Contract for any reason,
- 20.7.1 the Customer shall immediately pay to Aggreko all of Aggreko's outstanding unpaid invoices together with any interest accrued and, in respect of Services

supplied but for which no invoice has yet been submitted, Aggreko shall submit an invoice, which shall be payable by the Customer immediately on receipt;

20.7.2 the accrued rights and remedies of the Parties as at termination shall not be affected, including the right to claim damages in respect of any breach of this Contract which existed at or before the date of termination.

20.8 The following provisions shall survive the expiry or termination of this Contract and shall remain in full force and effect after such date: Clauses 3 (Payment), 4 (Guarantees), 8 (Transportation), 15 (Taxation), 16 (Indemnities), 17 (Limitation of Liability), 20 (Termination), 22 (Confidentiality and Publicity), 24 (Dispute Resolution), 25 (General Legal Provisions) and 26 (Governing Law).

## 21 PERMITS, LAWS AND REGULATIONS

21.1 Except to the extent that any Consents are expressly required to be obtained by Aggreko under this Contract as identified in Schedule 2, or which Aggreko already holds and has so advised the Customer in writing, the Customer shall, at its own cost, be responsible for obtaining all Consents required for the performance of the Contract and in respect of the Plant and Aggreko Personnel and for all approvals and permits required for Aggreko to engage in business and provide services of the nature contemplated by this Contract, in Guam. For the avoidance of doubt, the provisions of this Clause 21 pertain not only to the present legal and Government requirements, but also to the legal and Government requirements for the entire period of the Contract (including any extension thereof).

21.2 Both Parties shall observe and comply with all applicable laws including, without limitation, health and safety, labor, immigration and marine laws, whether of Government/statutory or other authority or agency having jurisdiction in relation to the Parties, the Services or the Site.

21.3 In its performance of this Contract the Parties shall comply with all applicable laws, regulations and sanctions relating to bribery and corruption including but not limited to the Bribery Act 2010 of UK Law. Either Party shall immediately notify the other Party of any investigation or enquiry by or on its behalf or any governmental, regulatory or other body in relation to any allegation or suspicion of any offence under any applicable laws and regulations involving the Party and/or its employees; and co-operate fully with any investigation or enquiry by or on behalf of either Party or any governmental, regulatory or other body in relation to any allegation or suspicion of any offence under any applicable laws and regulations. Without prejudice to any other rights it may have, either Party may terminate this Agreement with immediate effect by notice in writing to the other Party in

the event of a breach by either Party of this Clause 21.3 of this Contract. Without prejudice to any other rights it may have, the violating Party shall indemnify the other Party against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by or awarded against the other Party as a result of any breach of this Clause 21.3.

## 22 CONFIDENTIALITY AND PUBLICITY

22.1 The Customer undertakes to keep confidential all techniques, know-how, methods and processes which are the property of or are proprietary to Aggreko. The Customer shall also treat as confidential and shall not, without Aggreko's prior written consent, disclose to any third party any other information which is clearly marked as confidential by Aggreko.

22.2 The provisions of this Clause 22 shall not apply to information which:

22.2.1 is part of the public domain; or

22.2.2 was in the possession of the relevant Party prior to the Effective Date and which was not subject to any obligation of confidentiality owed to the other Party; or

22.2.3 was received from a third party whose possession is lawful and who is under no obligation not to disclose; or

22.2.4 is required to be disclosed in order to comply with the requirements of any law, rule or regulation of any governmental or regulatory body having jurisdiction over the Services or the relevant Party, or of any relevant stock exchange.

## 23 ASSIGNMENT

Neither Party shall be entitled to assign or sublet either this Contract or any part of it or any benefit or interest in or under it without the prior written approval of the other Party.

## 24 DISPUTES

24.1 The Customer and Aggreko agree to attempt resolution of all controversies which arise under, or are by virtue of, this Contract through mutual agreement. If the controversy is not resolved by mutual agreement, then the controversy shall be decided by the Customer in writing within sixty (60) days after Aggreko shall request the Customer in writing to issue a final decision. If the Customer does not issue a written decision within sixty (60) days after written request for a final decision, or within such longer period as may be agreed

upon by the parties, then Aggreko may proceed as though the Customer had issued a decision adverse to Aggreko.

The Customer shall immediately furnish a copy of the decision to Aggreko, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.

The Customer's decision shall be final and conclusive, unless fraudulent or unless Aggreko appeals the decision as follows:

24.1.1 For disputes involving money owed by or to the Customer under this Contract, Aggreko files appeal of the decision in accordance with the Government Claims Act by filing a government claim with the Customer no later than eighteen months after the decision is rendered by the Customer or from the date when a decision should have been rendered.

24.1.2 For all other disputes arising under this Contract, Aggreko files an appeal with the Office of the Public Accountability pursuant to 5 GCA §§ 5706(a) and 5427(e) within sixty days of the Customer's decision or from the date the decision should have been made.

Aggreko shall exhaust all administrative remedies before filing an action in the Superior Court of Guam in accordance with applicable laws.

Aggreko shall comply with the Customer's decision and proceed diligently with performance of this Contract pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, this Contract, except where Aggreko claims a material breach of this Contract by the Customer. However, if the Customer determines in writing that continuation of services under this Contract is essential to the public's health or safety, then Aggreko shall proceed diligently with performance of the Contract notwithstanding any claim of material breach by the Customer.

## 25 GENERAL LEGAL PROVISIONS

### 25.1 Amendment

This Contract shall not be amended except by an instrument in writing expressed to be an amendment or variation hereto and executed by the Parties.

### 25.2 Waiver

No failure or delay by a Party to exercise any right or remedy provided under this Contract or by the Applicable Law shall constitute a waiver of that or any other right or remedy, nor



shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

#### 25.3 Third party rights

No person other than a Party to this Contract shall have any rights to enforce any term of this Contract and the Customer shall not hire, let or rent the Plant or any part thereof to any third party without the written consent of Aggreko

#### 25.4 Retention of Rights

Unless otherwise specifically stated, both the Customer and Aggreko shall retain all rights and remedies, both under this Contract and in accordance with Applicable Law, which either may have against the other.

#### 25.5 Language

The language of this Contract shall be English and all meetings and other communications shall be in English.

#### 25.6 Notices

25.6.1 Any notice or other communication required to be given or made under this Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each Party required to receive the notice or communication as set out below:

To Aggreko:

The Company Secretary  
Aggreko International Projects Limited  
Lomondgate, Stirling Road,  
Dumbarton, Scotland, G82 3RG

Copy to:

The Regional Managing Director - APAC  
01 Woodlands Drive, Braeside 3195, Victoria  
Australia

To Customer:

General Manager  
Guam Power Authority  
Gloria B Nelson Public Utilities Complex  
688 Route 15 Fadian  
Mangilao, Guam  
96913

or as otherwise specified by the relevant Party by notice in writing to each other Party.

25.6.2 Any notice shall be deemed to have been duly received:

25.6.2.1 if delivered personally, when left at the address and for the contact referred to in this Clause; or

25.6.2.2 if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or

25.6.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

25.6.3 A notice required to be given under this Contract shall be validly given if sent by e-mail.

25.6.4 The provisions of this Clause shall not apply to the service of any proceedings or other documents in any legal action.

## 25.7 Invalidity

If any provision of this Contract shall be held to be invalid or unenforceable by a judgment or decision of any court of competent jurisdiction or any authority, the same shall be deemed severable and the remainder of this Contract (including the remainder of the affected provision) shall remain valid and enforceable to the fullest extent permitted by law. In any such case, the Parties will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid or unenforceable provision in order to give effect, so far as practicable, to the spirit of this Contract.

25.8 Entire Agreement

This Contract with its appendices contains the entire agreement and understanding between the Parties and supersedes any previous understandings, commitments, agreements or representations whatsoever, oral or written, pertaining to the subject matter hereof.

25.9 Counterparts

This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Contract, but all the counterparts shall together constitute the same Contract. No counterpart shall be effective until each Party has executed at least one counterpart.

25.10 Independent Contractor

Aggreko shall at all times be an independent contractor with respect to performance of the Services and neither Aggreko nor any person employed by Aggreko shall, other than as expressly authorized by the Customer in writing, either represent itself or himself (as appropriate) as, or be deemed for any purpose to be, an employee, agent, or representative of the Customer in the performance of the Services. Nothing in this Contract shall be deemed to create a joint venture, partnership or agency between the Parties.

25.11 No Waiver of Sovereign Immunity

The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the Customer of any immunities from suit or from liability that the Customer may have by operation of law.

26 GOVERNING LAW

Subject to Clause 24, this Contract and any Dispute or Claim arising out of or in connection with it or its subject matter or formation (including non-contractual Disputes or Claims) shall be governed by and construed in accordance with laws of Guam.

27 PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS

Title 5 GCA § 5630(c) and 2 GAR, Div. 4 § 11107(3) prohibits Aggreko from gratuities, kickbacks, and favors to the Customer and Aggreko represents that it has not violated, is

not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in the Guam Procurement Laws and Regulations.

**28 PROHIBITION AGAINST CONTINGENT FEES**

In accordance with 5 GCA § 5631(a) and 2 GAR, Div. 4 § 11108(a)(3), Aggreko represents and warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Aggreko, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Aggreko, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of making of this Contract. For breach or violation of this warranty, Customer shall have the right to annul this Contract without liability, or in its discretion to deduct from the Contract Price of consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**29 REPRESENTATION REGARDING ETHICAL STANDARDS FOR GOVERNMENT EMPLOYEES AND FORMER GOVERNMENT EMPLOYEES**

In accordance with 2 GAR, Div. 4 § 11103(b), Aggreko represents that it has not knowingly influenced and promises that it will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.

**30 PROHIBITION AGAINST EMPLOYMENT OF SEX OFFENDERS**

Title 5 GCA § 5253(b) restricts Aggreko against employing convicted sex offenders from working at Government of Guam venues. Aggreko warrants that no person providing services on behalf of Aggreko has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry. Aggreko warrants that if any person providing services on behalf of Aggreko is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, such person will be immediately removed from working at Aggreko and the Customer's venues and that the Customer shall be informed of such within twenty-four (24) hours of such conviction.

**31 REMEDIES**

Any dispute arising under or out of this Contract is subject to the provisions of Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

32      **WAGES AND BENEFITS**

Aggreko has read and understands the provisions of 5 GCA § 5801 and § 5802 governing wage and benefits determination. Aggreko acknowledges the obligation to pay its employees on Guam who are delivering services to Guam in accordance with the U.S. DOL Wages and Benefits Determination as stated in 5 GCA §§ 5801 and 5802. A copy of the most recent U.S. DOL Wages and Benefits Determination for the Guam Region is attached hereto and incorporated by reference to this Contract. Aggreko shall apply the Wage and Benefits Determination for Guam promulgated by the U.S. Department of Labor on a date most recent to the renewal date of the Contract in accordance with 5 GCA §§ 5801 and 5802.

For: Aggreko International Projects Ltd.

For: Guam Power Authority

Signed: George Whyte  
Name: George Whyte  
Position: Managing Director, APAC

*MW* Signed: John M. Benavente  
Name: John M. Benavente, P.E.  
Position: General Manager

Witness:

Mohamed Nahet  
Mohamed Nahet

Tricia Lyn T. Guzman  
Tricia Lyn T. Guzman

APPROVED AS TO FORM  
& LEGALITY

Signed: Douglas B. Moylan **Approved: Not Representing  
ANY Public Official**  
Name: Douglas B. Moylan  
Position: Attorney General of Guam  
Date: 2024.03.28

## SCHEDULE 1 – COMPENSATION

The Customer shall pay the following charges to Aggreko for the Operational Service Period.

### 1 Capacity Charge

The Customer shall pay the Capacity Charge to Aggreko from the Commercial Operation Date until expiry of the Operational Service Period or Extended Operational Service Period.

### 2 Energy Conversion Charge

The Customer shall pay the Energy Conversion Charge to Aggreko in respect of the electrical energy produced by the Plant during the Operational Service Period.

### 3 Fixed O&M Charge

The Customer shall pay the Fixed O&M Charge to Aggreko from [the Commercial Operation Date until expiry of the Operational Service Period or Extended Operational Service Period].

### 4. Mobilization Charge

The Customer shall pay an upfront Mobilization Charge of \$1,000,000 to Aggreko within 7 (seven) days of receipt of invoice issued by Aggreko.

The Customer shall pay the Mobilization Charge to Aggreko in full prior to Mobilization of the Plant from the Aggreko Equipment Nominated Depot.

### 5. Table of Charges

The Parties agree that the following prices and rates shall apply for the duration of this Contract

Name of Charge	Rate	Amount (US\$)
Capacity Charge	Per KW Per Month	27.35
Energy Conversion Charge	Per Megawatt Hour	9.00
Fixed O&M Charge	Per Month	192,081.00
Mobilization Charge	Single Payment	1,000,000.00

**6. Price Adjustment**

**6.1 Price Adjustment Methods.** Any adjustment in contract price pursuant to this Clause in this Contract shall be made in one or more of the following ways:

6.1.1 by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

6.1.2 by unit prices specified in the Contract or subsequently agreed upon;

6.1.3 by the costs attributable to the event or situation covered by the Clause, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;

6.1.4 in such other manner as the parties may mutually agree; or

6.1.5 in the absence of agreement between the parties, by a unilateral determination by the Customer of the costs attributable to the event or situation covered by this Clause, plus appropriate profit or fee, all as computed by the Customer in accordance with generally accepted accounting principles and applicable sections of the regulations promulgated under Chapter 7 (Cost Principles), subject to the provisions of Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

6.2 Submission of Cost or Pricing Data. Aggreko shall provide cost or pricing data for any price adjustments subject to the provisions of §3118 (Cost or Pricing Data) of the Guam Procurement Regulations

6.3 All charges, except for the Capacity Charge, under this agreement shall be subject to an annual escalation. This escalation shall be equivalent to 100% of the Consumer Price Index for All Urban Consumers (CPI-U) as published by the US Bureau of Labor Statistics. The escalation shall be applied on each anniversary of the contract's execution, with the base date being September 2023, provided that such charges cannot be increased more than once in any 1 (one) Year period. Aggreko will give the Customer written notice of any such increase one Month before the proposed date of the increase.

6.4 Aggreko may request for a revision of the Capacity Charge by giving four Weeks' written notice to the Customer to reflect any increase in the cost of the Services to Aggreko that is due to:



6.4.1 any agreement with the Customer to change the delivery date(s), quantities or Scope of Work, or the Specification in respect of the Plant;

6.4.2 any delay caused by any instructions of the Customer in respect of the Plant or failure of the Customer to give Aggreko adequate or accurate information or instructions in respect of the Plant.

7. In the event that:

7.1 the Site is not handed over 70 (seventy) days prior to the Scheduled Commercial Operation Date for the Plant; or

7.2 the Commercial Operation Date of the Plant is delayed beyond its Scheduled Commercial Operation Date and such delay is not caused by a default act or omission on the part of Aggreko to meet its obligations hereunder; or

7.3 the Plant does not receive backfeed availability at the connection point from the Customer 7 (seven) days prior to the Scheduled Commercial Operation Date;

then Aggreko shall be granted a pro rata extension of time to install and commission the Plant and the Capacity Charges for such Plant shall become payable by the Customer from the Scheduled Commercial Operation Date of such Plant.

8. Liquidated Damages:

Aggreko has agreed to meet the Commercial Operation Date under the Contract within one-hundred (100) calendar days from the Effective Date. Aggreko shall be liable to pay the Customer liquidated damages at the rate of \$2,000 per day for each day or part thereof but capped to total aggregate of USD \$120,000, for any delay caused by Aggreko's default act or omission in the event that the Scheduled Commercial Operation Date is so delayed.

## SCHEDULE 2 – RESPONSIBILITY MATRIX

Scope of Work	Party Responsible	
	Customer	Aggreko
<b>Permits and Licensing</b>		
Development Approval, Council Approval		X
Environmental Approval, Cultural Heritage, Noise & Air Emissions Considerations		X
HSE Management System		X
<b>Site Preparation</b>		
Bulk Earthworks	X	
Concrete Batching Plant & Concrete Supply	X	
Aggregate Material for Road Base	X	
Concrete Blocks, Cyclone Tie Downs		X
Earth Grid/Grading Ring Installation	X	
Equipotential Bonding of Aggreko Plant to Earth Grid		X
Equipotential Bonding of Fencing to Earth Grid		X
Fencing Supply & Installation Including Access Gates	X	
Equipment / Task Lighting		X
Area / Flood Lighting		X
<b>Logistics</b>		
Shipment Responsibility		X
Transportation Insurance		X
Transportation to Site		X

Flights to Site		X
Construction Machinery, including Craneage at the site		X
<b>Facilities</b>		
Accommodation & Meals		X
Site Construction Facilities (Office & Ablutions)		X
Vehicle Hire		X
Construction Power		X
Dumping Of Waste at Site Disposal Facility		X
Waste Disposal from Site	X	
<b>Fuel System</b>		
All Fuel Supply and Transport during Construction and Commissioning	X	
All Fuel Supply and Transport during Operations	X	
All Diesel Exhaust Fluid	X	
Fuel Connection Infrastructure	X	
Fuel Metering		X
<b>Electrical System</b>		
Connection Works within Power Station		X
Termination to existing 11 kV Switchboard		X
<b>Site Operational Management</b>		
Site Operational Personnel		X
All Operational Equipment & Spares		X
Water Supply		X
Operational Waste Disposal	X	

### SCHEDULE 3 - SCOPE OF WORK

1. The Customer hereby retains Aggreko for the supply of the Plant to the Customer's grid for Contract Maximum Demand of 20 MW, including operations and maintenance.  
Aggreko shall be responsible for the following:
  - A. Design the Plant.
  - B. Construct, supply, and install the Plant.
  - C. Procure and transport all required equipment and material.
  - D. Obtain required approvals, permits, and fire protection from Authorities to install and operate the Plant.
  - E. Test and commission the Plant.
  - F. Operate and maintain the Plant.
  - G. Reposition the identified 14 (fourteen) GPA QSK sets to the designated area of the Plant (7 (seven) relocated & 7 (seven) in-situ).
  - H. Establish independent metering for power, fuel and DEF.
  - I. Install 2 (two) Fuel flow meters.
  - J. Install 3 (three) DEF flow meters.
  - K. Replace DEF and Fuel pump containers.
  - L. Test, change if necessary and supply – New LV cables to TX & New HV cables to ZS1 in Aggreko power station (with cable trays).
  - M. Commission the plant within the 100-day deadline.
  - N. Remove all old cables in Aggreko power station.
  - O. Remove 3 (three) workshops to revised location identified by the Customer.
  - P. Assess the Customer's existing generator units and infrastructure for refurbishment or repairs and provide a cost proposal.
  - Q. Provide cost quotation for full refurbishment and for any additional services on Customer's existing equipment that are owned by Customer. For avoidance of doubt, any refurbishment work on Customer's existing equipment will not form any part of the scope of work under this Contract and the Parties will enter into a separate contract subject to mutual agreement on pricing and terms and conditions.
  - R. Coordinate and report the operation and maintenance of the Plant to GPA Dispatch Center.
  - S. Be responsible for environmental requirements and compliance of Aggreko's units.
  - T. Supply all consumables (such as parts and lubricants) for the duration of the contract period.
  - U. Provide an estimated fuel consumption schedule for fuel delivery planning purposes.
  - V. Continuously monitor fuel levels and report fuel delivery requirements ahead of time in accordance with the fuel supplier's delivery schedule throughout the use period.
  - W. Decommission and remove the Plant at contract termination.

- X. Restore the site to its original condition upon demobilization.
- Y. Verify performance of existing electrical systems where modifications have been made.
- Z. Provide a Cyber and Physical Security Plan before Commercial Operation Date that shall meet the following minimum requirements:
  - o Follows NIST 800 framework.
  - o Addresses the following NERC CIP standards:
    - Management of Security Controls
    - Training and Management of Security Personnel
    - Safeguarding Electronic Security Perimeters
    - Management of Security Systems
    - Incident Reporting and Response Planning
    - Recovery Planning
    - Configuration Change Management
    - Protection of Information Management of Supply Chain Risk
    - Physical Security
  - o Allows for Customer to review and/or test the Cyber & Physical Security controls of the Plant based on the approved Cyber and Physical Security Plan. Such review can be on a needed or regular basis.
  - o Cyber & Physical Security Plan should be updated on a regular basis to address changes in the Cyber and/or Physical security controls of the facility or its operation.
- AA. All other responsibilities identified in Attachment 1 as belonging to Aggreko.

2. The Customer shall be responsible for the following:

- A. Man, maintain, and run the existing QSK sets once relocated and commissioned.
- B. Supply and deliver all Diesel Exhaust Fluid (AdBlue).
- C. Fuel receipt and storage management.
- D. DEF receipt and storage management.
- E. HV switch board, AO1 incomer 1 and AO3 incomer 2, as referred to in the Attachment 1 page 9 (Aggreko responsibility terminates at entry point ZS1).
- F. All other responsibilities identified in Attachment 1 as belonging to Customer.

SCHEDULE 4 – NOT USED

## SCHEDULE 5 – FUEL SPECIFICATIONS

### GPA ULTRA-LOW SULFUR DIESEL FUEL SPECIFICATIONS

#### PRODUCT QUALITY SPECIFICATION: DIESEL FUEL Oil No. 2 <sup>A</sup>

Property	ASTM Test Method <sup>B</sup>	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	52 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		°C	280 Min 360 Max
Kinematic Viscosity	D-445		mm <sup>2</sup> at 40°C	1.9 Min 4.1 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453	D-7039	ppm (µg/g)	15 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Total Aromatic Hydrocarbons	D1319	IP391	% mass	15 Min 35 Max
Micro Carbon Residue on 10% distillation residue	D189	D524 D6371 D4530	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	460 Max
Conductivity	D2624	D4308	pS/m	25 Min
Density @ 15°C	D4052	D1298	Kg/m <sup>3</sup>	820 Min 850 Max
Gravity, API @ 60°F	D1298	D4052		35 Min 41 Max
Color	D1500	D6045	ASTM	2.0 Max
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.5 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ ambient temp <sup>C</sup>	Visual			Report
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min

<sup>A</sup> Follows the minimum requirements for **Ultra-Low Diesel Fuel Oils (ULSD)** listed under ASTM 975-10.

<sup>B</sup> These test methods are specified in 40 CFR Part 80. Test methods must follow the latest version.

<sup>C</sup> Appearance must be clear and bright at ambient temperature and free from water and particulates.

## **GPA FUEL SUPPLY ARRANGEMENTS**

Delivery	<p>GPA and its Fuel Supply Contractor (hereinafter CONTRACTOR) will liaise to prepare weekly fuel schedules showing anticipated times and quantities of fuel to be utilized by the Plant. GPA shall be responsible for ensuring the availability of fuel supplies, including funding and payments.</p> <p>The CONTRACTOR and Plant Staff shall comply with requirements set forth in the Diesel Fuel Supply Contract and related SOPs. The CONTRACTOR and GPA Assistant Plant Superintendent shall ensure that the Plant has adequate fuel supply daily, and shall follow the fuel supply request procedures discussed with the Diesel Fuel Suppliers.</p> <p>Delivery requests may be made between 7:00 AM to 5:00 PM daily including weekends and holidays. Fuel deliveries will be on an as needed / on call basis and may be available daily including weekends and holidays except during receiving of bulk fuel shipments by pipeline transfer at the supply source. Changes to these procedures shall be coordinated by GPA, the CONTRACTOR and the Fuel Suppliers ahead of time.</p> <p>All fuel will be delivered to the designated plant sites. Title and custody to the fuel shall pass from GPA to the CONTRACTOR when:</p> <ol style="list-style-type: none"><li>a) the fuel oil has passed the GPA pipeline flange connection to the first flange of the CONTRACTOR storage tank receiving pipeline, if delivery is via pipeline transfer; or</li><li>b) the fuel oil has passed the fuel supplier tanker truck hose connection to the first flange of the CONTRACTOR storage tank receiving pipeline, if delivery via road tankers.</li></ol>
Fuel Oil Storage	<p>The CONTRACTOR shall ensure that CONTRACTOR fuel storage facility has sufficient capacity (excluding deadstock) to sustain continuous operation at maximum consumption without refueling for at least 5 (five) consecutive days.</p> <p>The CONTRACTOR shall direct Plant Staff to comply with standard operating procedures to ensure that fuel inventory is handled in accordance with operating and regulatory requirements. CONTRACTOR shall perform all critical tasks, including ensuring that water is drained regularly.</p> <p>CONTRACTOR shall calibrate the fuel tanks in an approved manner.</p>
Testing	<p>Upon each delivery of fuel to and, from time to time thereafter, a suitable sample shall be taken and analyzed by the CONTRACTOR from the storage tank to ensure that it meets the specifications as shown above. Oil sampling and testing for quality by shall be performed by an independent third party surveyor and laboratory and results shall be reported to CONTRACTOR and GPA.</p>
Metering	<p>CONTRACTOR shall install a fuel meter at the CONTRACTOR storage tank, configured in a manner that will allow on-site calibration. Meters shall be calibrated by CONTRACTOR and tested every 6 (six) months under the CONTRACTOR Routine O&amp;M Spending Budget by a third party agreed between CONTRACTOR and GPA.</p>
Variation in rate Of delivery	<p>CONTRACTOR and GPA will liaise in estimating the fuel required to comply with GPA's annual, monthly and weekly systems operating plans.</p>
Security	<p>CONTRACTOR shall be responsible for all security and safety arrangements in respect of the fuel in the Site tanks</p>



**Spill Prevention  
Control and  
Countermeasure  
Plan (SPCC Plan)**

1. CONTRACTOR shall be responsible for the preparation of SPCC Plan for the facility for EPA and GPA's approval.
2. CONTRACTOR shall be responsible for the full compliance of the Facility SPCC Plan.

**Best Management  
Plan (BMP)**

CONTRACTOR shall be responsible for the preparation of the Facility BMP plan for EPA and GPA's approval, including full compliance with the plan.

## SCHEDULE 6 – FORM OF PAYMENT BANK GUARANTEE

**SCHEDULE 7 – NOT IN USE**

## SCHEDULE 8 – AGGREKO PERSONNEL

LOCAL MANNING REQUIREMENT - BY AGGREKO	0 -12 hours	12 -18 hours	18 - 24 hours
OS	1	1	1
Level 2 (Mechanical and Electrical Engineers, Control Room Op)	4	6	6
Level 1 (Mechanical and Electrical Engineers)	1	2	2
Service Crew	2	4	4
Other	1	1	1
TOTAL	9	14 (9+5)	14 (9+5)

Hours herein is defined as running hours - referring to the number of time hours when the Plant output is positive per day. For the purposes of manning requirements this shall be calculated based on a rolling Weekly average of the preceding 7 (seven) days. For any given day the manning levels for Aggreko and the Customer apply based on the rolling Weekly average calculated for that day and in accordance with the table above.

ATTACHMENT 1 – REVISED 24 SETS COMMERCIAL PROPOSAL FINAL