



RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

Appendix A: Notice of Appeal Form
PROCUREMENT APPEAL

DATE: 5-20-2013
TIME: 4:30 AM PM BY: JBA
FILE NO OPA-PA: 13-005

PART I- To be completed by OPA

In the Appeal of)
)
VITOL, Asia Private Limited,)
(Name of Company), APPELLANT)
)
)

NOTICE OF APPEAL

Docket No. OPA-PA _____

PART II- Appellant Information

Name: VITOL, Asia Private Limited
Mailing Address: C/O Ste. 216, Terlaje Prof. Bldg.
194 Hernan Cortez Ave., Hagatna, GU 96910
Business Address: Same as above
Email Address: john@terlaje.net
Daytime Contact No: (671) 477-8894
Fax No.: 472-8896

PART III- Appeal Information

- A) Purchasing Agency: Guam Power Authority
- B) Identification/Number of Procurement, Solicitation, or Contract: IFB-GPA-068-12
Contract No. GPA-001-10
- C) Decision being appealed was made on 02/26/2013 (date) by:
 Chief Procurement Officer Director of Public Works Head of Purchasing Agency

Note: You must serve the Agency checked here with a copy of this Appeal within 24 hours of filing.

- D) Appeal is made from:
(Please select one and attach a copy of the Decision to this form)
- Decision on Protest of Method, Solicitation or Award
 - Decision on Debarment or Suspension
 - Decision on Contract or Breach of Contract Controversy
(Excluding claims of money owed to or by the government)
 - Determination on Award not Stayed Pending Protest or Appeal
(Agency decision that award pending protest or appeal was necessary to protect the substantial interests of the government of Guam)

OFFICE
COPY

E) Names of Competing Bidders, Offerors, or Contractors known to Appellant:

Petrobras Singapore
Private Limited
8 EU Tong Sen Street
#22-89 The Central
Singapore 059818

Jiershin GT OHNG & Company LLC
#104 Pia Marine
193 Tumon Lane
Tamuning, Guam 96913

PART IV- Form and Filing

In addition to this form, the Rules of Procedure for Procurement Appeals require the submission together with this form of additional information, including BUT NOT LIMITED TO:

1. A concise, logically arranged, and direct statement of the grounds for appeal
2. A statement specifying the ruling requested,
3. Supporting exhibits, evidence, or documents to substantiate any claims and the grounds for appeal unless not available within the filing time in which case the expected availability date shall be indicated.


Note: Please refer to 2 GAR § 12104 for the full text of filing requirements.

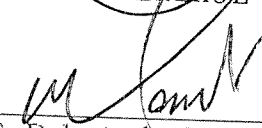
PART V- Declaration Re Court Action

Pursuant to 5 GCA Chapter 5, unless the court requests, expects, or otherwise expresses interest in a decision by the Public Auditor, the Office of Public Accountability will not take action on any appeal where action concerning the protest or appeal has commenced in any court.

The undersigned party does hereby confirm that to the best of his or her knowledge, no case or action concerning the subject of this Appeal has been commenced in court. All parties are required to and the undersigned party agrees to notify the Office of Public Accountability within 24 hours if court action commences regarding this Appeal or the underlying procurement action.

Submitted this 5 day of March, 2013.

By: , Attorney for
 APPELLANT, VITOL Asia Private Limited
 JOHN C. TERLAJE

or
 By: 
 Appellant's Duly Authorized Representative, Vincent Santos
 (Address)
 (Phone No.)

APPENDIX A

PROCUREMENT APPEAL

In the Appeal of)	NOTICE OF APPEAL
)	
VITOL ASIA PRIVATE LIMITED)	DOCKET NO. OPA-PA _____
APPELLANT)	
_____)	

APPEAL INFORMATION

Procuring Agency: Guam Power Authority (GPA)

Number of Procurements: Invitation For Bids No. GPA-068-12;
 Contract No. GPA-001-10

Appeal is made from decision to proceed with a contract action to award Petrobras a six month contract, ostensibly as an extension to Contract No, GPA-001-10 for the same fuel requirements covered by Invitation For Bids (IFB) No. GPA-068-12. Appellant has protested to GPA, but has not received any response. Appellant deems this agency level protest to be denied based on GPA's public action of requesting and receiving authority from the Public Utilities Commission (PUC) to proceed with the contractual action with Petrobras under Contract No. 001-10.

Names of competing bidders, offerors, or contractors known to Appellant:

Petrobras Singapore private Limited (Petrobras), 8 EU Tong Sen Street #22-89 – The Central, Singapore 059818; and Jiershin GT OHNG & Company LLC (Jiershin), #104 Pia Marine, 193 Tumon Lane, Tamuning Guam 96913.

STATEMENT OF GROUNDS FOR APPEAL

A. Factual Context and Chronology:

1. This is a story of unethical and bad faith procurement practices. It begins with the incumbent contract (GPA-001-10) to supply GPA's requirements for Fuel Oil No. 6, Low and High Sulfur Content, awarded to Petrobras in 2010 with an expiration date of 28 February 2013. Although the contract included two potential option periods of one year each, the parties were not able to exercise the first of these options. Upon information and belief, Petrobras refused a proffered extension because Petrobras found the the pricing terms of the existing contract unprofitable.

2. On 31 August 2012, GPA issued IFB No. GPA-068-12 to supply GPA's requirements for Fuel Oil No. 6 for a two year period commencing in March 2013. Bidders were required to bid based on a pricing structure consisting of two elements, a market averaging element that was given to the bidders as part of the contract and a premium fee rate to cover the bidders costs, overhead and profit. Since

the market element was supplied by GPA as a bench mark to be used by all bidders, the premium fee rate was the basis of competition among the bidders.

3. On 16 November 2012, GPA held a public bid opening. Three companies submitted bids, Petrobras, Vitol and Jiershin. The premium fee rates for each bidder were as follows:

Bidder	Low Sulfur	High Sulfur
Jiershin	\$107	\$57
Vitol	\$118.05	93.05
Petrobras	\$125.30	96.30

4. Petrobras' bid under IFB GPA-068-12 was immediately rejected as non-responsive for failure to include a bid guarantee in the proper amount.
5. Shortly after bid opening, GPA commenced sole source negotiations with Petrobras to extend the incumbent contract No. GPA-001-10 This culminated in an agreement acknowledged and approved by the Consolidated Commission on Utilities (CCU) on 12 December 2012. Under the terms of the agreement, Petrobras was to be allowed to raise its contractual price premium rate from \$42.91 to \$117.80 for low sulfur fuel and from \$20.44 to \$92.80 for high sulfur fuel. This is approximately a 300% increase for low sulfur and a 450% increase for high sulfur. Both increased rates are exactly twenty-five cents below Vitol's bid.
6. By letter dated 15 January 2013, GPA informed Vitol that Vitol was the apparent successful offer or under IFB No. GPA-068-12 and that GPA was considering the award of a delivery order to cover the first six months' requirements commencing in March 2013. This is the same six month period covered by the already negotiated 'extension with Petrobras.
7. Thirty five days after the CCU's approval of Petrobras renegotiated terms, on 16 January 2013, GPA rejected Jiershin's bid as non-responsible. Forty eight days after the CCU approval, Jiershin protested to GPA. That protest is still pending.
8. By letter dated 05 February, 2013, GPA informed Appellant that further action to acquire its fuel requirements under IFB No. GPA-068-12 were stayed in accordance with 5 GCA §5425(g) pending resolution of Jiershin's protest. The letter further stated that GPA was proceeding to acquire these same requirements by extension of Petrobras' contract No. GPA-001-10 to allow time resolve the issues raised by Jiershin's protest.
9. On 06 February 2013, the Appellant protested, at the agency level, the proposed contractual action with Petrobras. On 13 February 2013 Appellant supplemented its protest to the agency. To date, appellant has received no formal response to its protest. However, this protest should be deemed denied based on GPA's public actions of seeking and, on 26 February 2013, receiving the PUC's approval to proceed with the contractual action with Petrobras.
10. Although the Appellant has made both written and oral requests for copies of documents concerning Petrobras' original rejection of an option to extend and the subsequent negotiation leading

to the agreement acknowledged by the CCU on 12 December 2012, GPA has failed to date to fully comply, in violation of Guam's Sunshine Reform Act of 1999 and 5 GCA §5251.

B. First Grounds for Appeal

11. All procurement actions to acquire GPA's fuel requirements after February 2013, including any extension of the incumbent contract, should have been stayed pursuant to 5 GCA §5425(g) when Jiershin filed its protest.

12. Both the incumbent contract and the contract to result from IFB No. GPA-068-12 are "requirements" contracts. That is, GPA is legally bound to procure all of its requirements from the successful contractor for the duration of the contract term. When Jiershin filed its protest, all procurement action to acquire GPA requirements should have been stayed. The statutory remedy for any potential difficulties is not to go back to the expiring contract but either to obtain a declaration of emergency authorizing a spot buy, or to proceed with award to the apparent successful bidder, in this case Vitol, in accordance with the provisions of 5 GCA §5425(g). In August 2012, GPA elected to acquire its requirements through the IFB process instead of by extension of the incumbent contractor. It should not now be able to shift back to the incumbent at its convenience to avoid the protections afforded by the stay provisions of 5 GCA §5425(g).

C. Second Grounds for Appeal

13. Although GPA characterizes the contractual action with Petrobras as the exercise of an option to extend the existing contract No. GPA-001-10, this action actually is a sole source negotiation of a new contract in violation of 5 GCA §5214.

14. Upon information and belief, all major terms and conditions of Petrobras' contractual agreement have been changed from those in the original contract. First and most important, the prices have been significantly increased as outlined in paragraph 5, above. Second the option periods have been changed from two consecutive one year options to a six month option followed by a one year option. By letter dated 02 February 2013, Petrobras indicates that the following additional contract terms and conditions are completely replaced or deleted: Section 2.01 Product and Quality; Section 3.03 – Specifications; Section 3.11 – Disputes; Section 4.05 – Default; and Section 5.08 – Governing Law.

15. The differences between the terms and conditions of the original contract and the negotiated 'extension' are so great that the changes must be considered cardinal changes, outside the scope of the original contract. They constitute the negotiation of a new contract, done on a sole source basis without a sole source determination as required by 5 GCA §5214.

D. Third Grounds for Appeal

16. The procurement is an unethical and inherently unfair "auctioneering" action that threatens the integrity of the procurement process.

17. Upon information and belief, Appellant asserts that GPA has no intentions of awarding a contract under IFB GPA-068-12. Appellant comes to this conclusion based on the fact that GPA entered into negotiations shortly after bid opening and on statements made before the PUC on 26 February 2013.

To paraphrasing a statement by GPA Counsel before the PUC, GPA desired a reformation of the terms and conditions of the incumbent contract No. GPA-001-10 and used the IFB process to ascertain a market price for that reformation.

18. Upon information and belief, Appellant asserts that Petrobras never intended to bid successfully under IFB No. GPA-068-12. Petrobras submitted a grossly inadequate bid guarantee in the amount of \$5,000 instead of the required \$500,000. Further, upon information and belief, Appellant asserts that Petrobras' bid was a qualified bid, objecting to essential terms and conditions of the solicitation and resulting contract. These actions assured the rejection of Petrobras' bid as non-responsive. Upon information and belief, Appellant concludes that these actions were taken to allow for the wholesale renegotiation of option provisions in Contract No. 001-10, independent of IFB No. GPA-068-12. Petrobras' actions in assuring rejection of its bid cannot otherwise be explained.

19. Shortly after bid opening and the resulting public disclosure of Appellant's premium fee rate, without threat of pending protest or other emergency and despite Petrobras' qualified and non-responsive bid, GPA opened up sole source negotiations with Petrobras to allow a premium fee rate increase to just twenty five cents below Vitol's exposed bid. This constitutes 'auctioneering', allowing one prospective source to undercut another on a sole source, non-competitive basis. If allowed to stand, such actions threaten the integrity of the Government of Guam's procurement system.

STATEMENT OF REQUESTED RULINGS

20. Appellant respectfully requests that the Public Auditor declare the contractual action between GPA and Petrobras for delivery of fuel Oil No. 6 null and void.

21. Appellant further requests that, should GPA allege an emergency need, GPA be directed to follow the provisions in Title 5 to seek a declaration of emergency or to continue with the award to Vitol notwithstanding Jiershin's protest in accordance with the procedures in 5 GCA §5425(g).

22. Appellant also requests that GPA be directed to expeditiously disclose all procurement records on contract No. GPA-001-10 and IFB No. GPA-068-12 to Vitol and to proceed in a timely manner with a decision of Jiershin's protest.

23. Appellant requests bid preparation costs, protest costs and other damages as allowed by law.

24. Vitol stands ready to commence fuel deliveries on a 6 week mobilization notice. On information and belief GPA has a 90 day supply of fuel oil as a result of Petrobras' February deliver. Given proper notice Vitol stands ready to make delivery without jeopardizing GPA's continued supply of fuel.

SUPPORTING EVIDENCE, EXHIBITS OR DOCUMENTS

a. Cover letter to Petrobras' bid dated 16 November 2012, consisting of 6 pages objecting to the terms and conditions of IFB No. GPA-068-12;

b. Petrobras' bid guarantee dated 14 November 2012 in the amount of \$5,000;

- c. CCU Resolution No. 2012-80, acknowledging and approving extension of Petrobras contract No. GPA-001-10 on terms significantly different than the terms and conditions of the original contract and with a premium fee rate increase to exactly twenty five cents below Vitol's bid in IFB No. GPA-068-12;
- d. Undated briefing papers, apparently prepared by Petrobras setting forth a comparison of premium fee rates for the original contract No. GPA-001-10, the proposed extension of that contract and Vitol's bid received under IFB No. GPA-068-12;
- e. GPA's letter to Vitol dated 15 January 2013 regarding "NOTICE OF INTENT OF POSSIBLE AWARD FOR BID NO.: GPA-068-12 FOR SUPPLY OF RESIDUAL FUEL OIL NO. 6 and initiating a six month delivery order, commencing in March 2013, to cover GPA's fuel requirements;
- f. Jiershin's bid protest dated 29 January 2013;
- g. GPA's letter to Vitol dated 05 February 2013 advising that procurement action has been stayed as a result of Jiershin's bid; but that procurement would continue with a delivery order to Petrobras;
- h. Petrobras' letter to GPA dated 02 February 2013 setting forth a wholesale change in contract terms and conditions as a condition for extension of contract No. GPA-001-10;
- i. Vitol's protest letter to GPA dated 06 February 2013;
- j. Vitol's supplement to its protest letter dated 11 February 2013;
- k. Vitol's document request to GPA dated 12 February 2013;
- l. GPA letter to Vitol dated 20 February 2013 partially responding to Vitol's document request;
- m. Vitol's letter to GPA dated 22 February 2013 notifying GPA of its failure to fully comply with Vitol's document request.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GPA DOCKET 12-09)

THE APPLICATION OF THE GUAM)
POWER AUTHORITY TO APPROVE)
THE CONTRACT EXTENSION WITH)
PETROBRAS FOR SUPPLY OF)
RESIDUAL FUEL OIL NO. 6 TO GPA)

ORDER

INTRODUCTION

1. On January 11, 2013, the Guam Power Authority filed a Petition for Review and Approval of the Contract for Supply of Residual Fuel Oil No. 6 with Vitol Asia Pte., Ltd ["Vitol"]. However, at the PUC Regular Meeting conducted on January 29, 2013, GPA requested that PUC not act on the approval of the Fuel Supply Contract with Vitol Asia Pte., Ltd., as a bid protest had been filed regarding the award of the Contract to Vitol.
2. On February 4, 2013, GPA requested that PUC approve a six month contract extension with its present supplier of RFO No. 6, Petrobras. On February 11, 2013, the PUC, acting through its Chairman pursuant to 12 GCA §12004, approved GPA's Petition authorizing a six month extension of the Fuel Supply Contract with Petrobras.
3. At the regular PUC meeting conducted on February 26, 2013, this matter came before the PUC Commissioners for ratification of the Order executed by the Chairman. PUC Counsel explained the background of the matter and then indicated that on February 19, 2013, Vitol Asia Pte., Ltd. had filed a complaint requesting that PUC reject ratification of the contract and order GPA to stay execution of the contract and rescind the extension.¹
4. At the February 26, 2013, meeting, Vitol Attorney John Terlaje was given an opportunity to present argument on the Vitol Complaint. He contended that the contract extension was illegal and violated provisions of the procurement law. GPA, through its Counsel, Graham Botha, argued in favor of ratification of the contract extension.

¹ Complaint and Notice of Objection by Vitol Asia Private Ltd., filed February 19, 2013.

ORDERING PROVISIONS

The Guam Public Utilities Commission, having heard the report of its Counsel, and the arguments of Counsel for Vitol Asia Pte., Ltd. and GPA, upon motion duly made, seconded, and unanimously approved, **HEREBY ORDERS**, that:

1. The Order of the Chairman of the PUC, dated February 11, 2013, which approved GPA's six month contract extension for fuel oil supply with Petrobras Singapore Private, Ltd., is hereby ratified and affirmed.
2. The Complaint of Vitol Asia Pte., Ltd., is denied. The arguments raised by Vitol concerning the alleged illegality of the contract extension and alleged violations of the procurement law should be addressed by the appropriate bodies for resolution of such complaints, the Office of Public Accountability and/or the Courts of Guam.

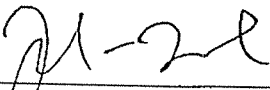
SO ORDERED this 26th day of February, 2013.



Jeffrey C. Johnson
Chairman

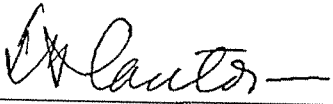


Rowena E. Perez
Commissioner

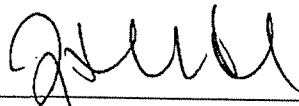


Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner



Filomena M. Cantoria
Commissioner



Peter Montinola
Commissioner



PETROBRAS
SINGAPORE PRIVATE LTD.

PAULO CANABRAVA TEL/FAX: +65 6550 5705/+65 6734 9087 EMAIL: canabrava@petrobras.com.br

WE HOPE TO RECEIVE A POSITIVE REPLY FROM YOUR GOOD COMPANY.

RESPECTULLY SUBMITTED BY,

PETROBRAS SINGAPORE PRIVATE LIMITED
(CONTRACTOR)

FERNANDO GABRIEL COUTO KAMACHE
(BY)

DIRECTOR
(TITLE)

8 EU TONG SEN STREET, #22-80 THE CENTRAL, S(059818)
(BUSINESS ADDRESS)

Fernando Kamache
Finance Director
Petrobras Singapore Private Ltd.
Reg. No. 200604967H



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Section 4.05 DEFAULT

Please delete in its entirety and revise as follows:

"If the PARTY refuses or fails to perform any of their obligations under this agreement, non-breaching PARTY shall notify the PARTY either by e-mail or in writing within THIRTY (30) days of the breach. If the PARTY does not remedy the breach within 30 days after the date of notification, non-breaching PARTY may by giving written notice to PARTY terminate the Agreement in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, GPA reserves the right to procure fuel oil supply from another source immediately upon notification to CONTRACTOR either by e-mail or in writing. Fuel to be procured shall be at the prevailing market rate and the CONTRACTOR shall be liable for the difference between the contract price and the prevailing market price at the time of partial termination or suspension.

In the event of termination, the CONTRACTOR shall not be liable for the difference between the contract price and the prevailing market price at the time of termination."

Section 5.04 ASSIGNMENT

Please delete in its entirety and revise as follows:

"Neither PARTY shall have the right to transfer or assign this agreement, in whole or in part, or any right and obligations arising therefrom, to a third PARTY without the prior written consent of the other PARTY, such consent not to be unreasonably withheld. Any attempted assignment or transfer without such prior consent shall be null and void.

Notwithstanding the foregoing, both PARTIES shall have the right to assign this agreement to an affiliate without the other PARTY's written consent required. In case of such assignment, the assigning PARTY shall inform the other PARTY thereof in writing and without undue delay.

For the purposes of this agreement, "affiliate" means any company or legal entity which (a) controls either directly or indirectly a party hereto, or (b) is controlled directly or indirectly by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such party. "Control" for purposes of the previous sentence means the ability to direct the management and policies of a company or legal entity, whether through ownership of securities, by contract or otherwise.

This agreement shall be binding upon, and inure to the benefit of the successors and permitted assignees of the PARTIES."

ONLY AND SINCE THE ABOVE CONDITIONS ARE MET, THIS OFFER CAN BE ACCEPTED BY GPA. BUT, EVEN IF ACCEPTED, THIS OFFER WILL BE SUBJECT TO APPROVAL BY PETROBRAS BOARDING OF DIRECTOR. IT IS EXPRESSED AND UNDERSTOOD THIS IS A CONDITIONAL OFFER.

THIS OFFER IS VALID UNTIL 1700H OF DECEMBER 14TH, 2012, GUAM TIME.

PSPL CONTACTS:

IVAN DAMASIO	TEL/FAX: +65 6550 5082/+65 6734 9087	E-MAIL: ivandamasio@petrobras.com.br
LEANDRO PASSOS	TEL/FAX: +65 6550 5091/+65 6734 9087	E-MAIL: leandro.passos@petrobras.com
EDUADO CAMPELLO	TEL/FAL: +65 6550 5097/+65 6734 9087	E-MAIL: eduardocampello@petrobras.com.br

Head Office: 8 Eu Tong Sen Street # 22-89 – The Central - Singapore – 059818
5 / 6



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Section 3.03 SPECIFICATIONS

Delete in its entirety.

Section 3.05 FORCE MAJURE

Please add the following paragraph: "Force Majeure claims shall be submitted within sixty (60) days. After this period, no claims shall be accepted by any parties."

Section 3.11 DISPUTES

Delete in its entirety and replace as follows:

"THIS CONTRACT SHALL IN ALL RESPECTS BE GOVERNED BY LAWS OF GUAM. THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ARE EXPRESSLY EXCLUDED.

THIS CONTRACT SHALL NOT BE CONSTRUED TO CONFER ANY BENEFIT ON ANY PERSON NOT BEING A PARTY TO THIS CONTRACT NOR SHALL IT PROVIDE ANY RIGHTS TO SUCH PERSON TO ENFORCE ANY OF ITS PROVISIONS. THE PROVISIONS OF THE ENGLISH CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 ARE EXPRESSLY EXCLUDED.

IN THE EVENT OF ANY CONTROVERSY, DISPUTE OR DIFFERENCE OF ANY NATURE (A "DISPUTE") BETWEEN THE PARTIES ARISING FROM OR IN CONNECTION WITH THIS CONTRACT, EITHER PARTY MAY GIVE NOTICE TO THE OTHER IN WRITING OF THE EXISTENCE OF SUCH DISPUTE SPECIFYING ITS NATURE AND THE POINTS AT ISSUE. IF THE DISPUTE SHALL NOT HAVE BEEN AMICABLY RESOLVED WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF SAID NOTICE, THEN THE SAME SHALL BE EXCLUSIVELY AND DEFINITELY RESOLVED THROUGH FINAL AND BINDING ARBITRATION IN NEW YORK, BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), IN ACCORDANCE WITH THE RULES OF ARBITRATION OF SUCH INSTITUTION IN EFFECT AS OF THE DATE THE EXISTENCE OF THE CONTROVERSY IS NOTIFIED BY ONE OF THE PARTIES. THE ARBITRATION SHALL BE CONDUCTED BY THREE ARBITRATORS, UNLESS ALL PARTIES TO THE DISPUTE AGREE TO A SOLE ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE FILING OF THE ARBITRATION. EACH PARTY TO THE DISPUTE SHALL APPOINT ONE ARBITRATOR WITHIN THIRTY (30) DAYS OF THE FILING OF THE ARBITRATION, AND THE TWO ARBITRATORS SO APPOINTED SHALL SELECT THE PRESIDING ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE LATTER OF THE TWO ARBITRATORS HAVE BEEN APPOINTED BY THE PARTIES TO THE DISPUTE. IF A PARTY TO THE DISPUTE FAILS TO APPOINT ITS PARTY-APPOINTED ARBITRATOR OR IF THE TWO PARTY-APPOINTED ARBITRATORS CANNOT REACH AN AGREEMENT ON THE PRESIDING ARBITRATOR WITHIN THE APPLICABLE TIME PERIOD, THEN LCIA SHALL APPOINT THE REMAINDER OF THE THREE ARBITRATORS. THE ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN ENGLISH AND THE ARBITRATOR(S) SHALL BE FLUENT IN THE ENGLISH LANGUAGE. THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE FINAL AND BINDING. JUDGMENT ON THE AWARD OF THE ARBITRAL TRIBUNAL MAY BE ENTERED AND ENFORCED IN ANY COURT HAVING JURISDICTION THEREOF. THE COSTS OF THE ARBITRATION PROCEEDINGS, INCLUDING ATTORNEYS' FEES, SHALL BE BORNE IN THE MANNER DETERMINED BY THE ARBITRAL TRIBUNAL. ANY RIGHT TO APPEAL OR CHALLENGE ANY ARBITRAL DECISION OR AWARD IS HEREBY WAIVED. THE PARTIES MAY SEEK A PRELIMINARY INJUNCTION OR OTHER PRELIMINARY JUDICIAL RELIEF, IF IN ITS JUDGMENT SUCH ACTION IS NECESSARY TO AVOID IRREPARABLE DAMAGE. IT IS EXPRESSLY AGREED THAT INDIRECT, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES SHALL NOT BE AWARDED."

Section 4.04 PENALTY CLAUSE

Please amend Subsection (a) (2) as follows:

(2) CONTRACTOR Accepts to pay GPA for every delayed delivery beyond the last day of the five (5) days stipulated delivery date range as set out in the nomination procedure, a penalty equivalent to:

- \$0.30/MT multiplied by the Bill of Lading quantity for every day of delay if delivery is less than five days late.
- \$0.60/MT multiplied by the Bill of Lading quantity for every day of delay if delivery is more than five days late.



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Delete:

"Product temperature shall be maintained between one hundred five to one hundred fifteen degrees Fahrenheit (105oF – 130oF) on arrival and during the discharge at Guam Port."

Replace with:

"Product temperature shall be maintained between one hundred five to one hundred fifteen degrees Fahrenheit (115oF - 130oF) on arrival and during the discharge at Guam Port."

Section 1.07 TERMS OF PAYMENT

Paragraph 2: Please revise to be read as: "Payment shall be available at Seller's account on Maturity Date. If Buyer fails to pay on the maturity date, Seller shall be reimbursed for the interests related to the time of delay. Interest Rate shall be calculated based on the one month London Interbank Offered Rate (LIBOR) for US Dollar Deposits offered by Bloomberg Publication at 11:00 A.M. London Time, as quoted on page BBAM in effect on the date buyer's payment was due, plus three percent (3%) per annum.

Please insert: "Letter of credit shall be opened no later than two days before the beginning of loading the product at a first class international bank mutually agreeable to both GPA and the contractor."

Section 1.10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

Delete in its entirety.

Section 1.11 CONTRACTOR FACILITY AUDIT

Please revise as follows: "CONTRACTOR shall allow and provide authorized GPA representatives safe access to the CONTRACTOR'S or its Sub-Contractor's facilities for audit inspection, upon coordination with and approval by CONTRACTOR'S Facility Administrator. Such audit inspection shall be conducted annually at a minimum."

Section 2.01 PRODUCT AND QUALITY

Note on Item 18: Odour

Please revise as follows: "The odour shall be typical characteristics of mild hydrocarbon smell, but must be unusually strong, repulsive or obnoxious. The Fuel delivered shall be subject to inspection by regulatory agencies such as the US EPA, or by third party inspectors, should issues related to odour arise. In the event that such unusually strong, repulsive or obnoxious odor is detected, the product shall be replaced at the Contractor's expense."

Note on Item 19: Hydrogen Sulfide in Vapour

Please replace "70ppm" to "100ppm".



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The minimum lot size required for each delivery is 35,000MT. The first delivery of fuel oil pursuant to the Contract is anticipated to be on or about March 01, 2013."

Section 1.03 CONTRACT TERM

Paragraph 1. Please revise to be read as: "The Contract Term shall be for ONE (1) year and shall commence on or about after 0:00 hour on March 01, 2013, and shall continue until midnight of February 28, 2014 with options to extend for THREE (3) additional One (1) year terms, renewable annually, upon mutual agreement of both parties".

Paragraph 2: Delete in its entirety.

Section 1.04 CONTRACT PRICE

BID PRICE OFFERS (D.E.S. Ex-Ship Guam):

I. MANDATORY BID – SECTION 2.01 TABLE 1

Bid Offer		One (1) Year Contract Base Period	First Year Extension	Second Year Extension	Third Year Extension
LSFO 1.19% Sulphur Max	US\$/MT	867.610	872.810	879.000	889.000
	Amount in Words	Eight hundred and sixty seven dollars and sixty one cents.	Eight hundred and seventy-two dollars and eighty-one cents.	Eight hundred and seventy nine dollars.	Eight hundred and eighty nine dollars.
HSFO 2.00% Sulphur Max	US\$/MT	838.610	845.110	852.000	860.000
	Amount in Words	Eight hundred and thirty eight dollars and sixty one cents.	Eight hundred and forty five dollars and eleven cents.	Eight hundred and fifty two dollars.	Eight hundred and sixty dollars.

Section 1.05 INVOICE PRICE DETERMINATION

In items (a) and (b)

Delete:

"The invoice price per barrel"

And replace with:

"The invoice price per metric ton".

Please insert: "For invoice calculation purpose, quantity shall be reported in metric tones as declared in Bill of Lading."

Section 1.06 FUEL OIL DELIVERY



PETROBRAS
SINGAPORE PRIVATE LTD.

NOVEMBER 16TH, 2012

BID FORM

TO : GUAM POWER AUTHORITY – PROCUREMENT MANAGEMENT MATLS. SUPPLY
REF : INVITATION FOR BID (IFB) NO GPA-068-12.

THIS OFFER IS CONDITIONED TO THE SATISFACTION OF THE FOLLOWING CONDITIONS:

Part II: INSTRUCTIONS TO BIDDERS

Item 19: PERFORMANCE AND PAYMENT BOND

Please revise the first sentence on item number 19 on page 14 as follows:

"The successful bidder must deliver to the Guam Power Authority an executed performance and payment bond (format to be mutually agreed) in an amount at least equal to twenty five million dollars (\$25,000,000.00) as security for the faithful performance of the contract. The value guaranteed by the performance bond shall be reduced by 1/12 of its value each month."

Please revise the third paragraph on page 18 as follows:

"If written notice of the acceptance of this bid is mailed, telegraphed or delivered to the undersigned within sixty (60) calendar days after the opening thereof, the undersigned agrees to execute the form of the agreement included as one of the contract documents, and to furnish a performance and payment bond in an amount equal to twenty-five million (\$25,000,000.00) within fifteen (15) calendar days after receipt of such notice."

Part III: FUEL SUPPLY CONTRACT

RECITALS

Paragraph 3. Please remove "THREE (3) year term fuel supply Contract with option to extend for additional TWO (2), renewable annually, upon mutual agreement of both parties" and replace with "ONE (1) year term fuel supply Contract with option to extend for additional THREE (3), renewable annually, upon mutual agreement of both parties."

Section 1.02 FUEL OIL TO BE SUPPLIED

Paragraph 1. Please revise to be read as: "CONTRACTOR agrees to furnish and GPA agrees to accept and pay for all of GPA's residual fuel oil requirements for power generating plants in Guam for the term of the Contract. The estimated total fuel oil requirement is about THREE MILLION BARRELS PER YEAR (3,000,000 bbls/yr). The Minimum Purchase under the Contract is 300,000 Metric Tons annually. The Maximum Purchase under the Contract is 500,000 Metric Tons annually."



PETROBRAS
SINGAPORE PRIVATE LTD.

BBVA

Guam Power Authority
ATURIDAT ILEKTRESEDAT GUAHAN
P.O. BOX 2977 HAGATNA,
GUAM U.S.A. 96932-2977

Bid Bond No. OGT12000053

KNOW ALL MEN BY THESE PRESENTS that Petrobras Singapore Private Ltd as Principal hereinafter called the Principal, and, Banco Bilbao Vizcaya Argentaria, S.A., a corporation duly registered under the laws of Spain with branch in Singapore as Surety, hereinafter called the Surety are held firmly bound unto the Territory of Guam for the sum of United State Dollars, Five Thousand (\$ 5,000.00), for Payment of which sum will and truly to be made, the said Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for BID (IFB) No. GPA-068-12, for the Supply of Residual Fuel Oil No. 6

NOW, THEREFORE, if the Territory of Guam shall accept the bid of the Principal and the Principal shall enter into a Contract with the Territory of Guam in accordance with the terms of such bid, and give such bond or bonds as may be specified in bidding or Contract documents with good and sufficient surety for the faithful performance of such Contract and for Documents with good sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Territory of Guam the difference not to exceed the penalty hereof between the amounts specified in said bid and such larger amount for which the Territory of Guam may in good faith contract with another party perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain full force and effect.

Signed and sealed this 14th day of November 2012.

Yours faithfully,
For and on behalf of
Petrobras Singapore Private Ltd.
(as the Principal)

For an on behalf of
Banco Bilbao Vizcaya Argentaria, S.A.
(as the Surety)



Fernando Kamache

Fernando Kamache
Finance Director
Petrobras Singapore Private Limited
Reg. No. 200604967H

Whaneca

Venissa Velosa da Fonseca
Managing Director

Koh Siew Chuan

Vice President

Koh Siew Chuan

Concepcion

Senior Officer

Concepcion



PETROBRAS
SINGAPORE PRIVATE LTD.



INSTRUCTION TO PROVIDERS:

NOTICE to all Insurance and Bonding Institutions:

The Bond requires the signatures of the Vendor, two (2) major Officers of the Surety and Resident General Agent, if the Surety is a foreign or alien surety.

When the form is submitted to the Guam Power Authority, it should be accompanied with copies of the following:

1. Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation.
2. Power of Attorney issued by the Surety to the Resident General Agent
3. Power of Attorney issued by two(2) major officers of the Surety to whoever is signing on their behalf.

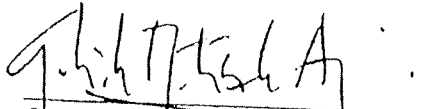
Bonds, submitted as Bid Guarantee, without signatures and supporting documents are invalid and Bids will be rejected.

POWER OF ATTORNEY

THIS POWER OF ATTORNEY is issued the 15th day of November 2012 by Ms. Gabriela Martinez de Aragon Calvo for and on behalf of Banco Bilbao Vizcaya Argentaria S.A. ("BBVA") in favour of Ms. Siew Chin KOH and Ms. Cindie LIM (hereinafter referred to as the "Attorneys").

I HEREBY APPOINTS the Attorneys acting jointly to be its true and lawful attorneys and for, on its behalf and in its name to execute and deliver the bid bond to be submitted by Petrobras Singapore Private Ltd. ("The Borrower") in favour of Guam Power Authority for an amount of US\$5,000 and to do all such acts and things as may be necessary to complete the execution and delivery by BBVA of the bid bond.

This Power of Attorney shall be governed by and construed in accordance with the English law and the powers hereby conferred shall expire on the date falling 30 days after the date of issue hereof.



Gabriela Martinez de Aragon Calvo



**CONSOLIDATED
COMMISSION ON UTILITIES**

Guam Power Authority • Guam Waterworks Authority
P.O. BOX 2977 • Agaña, Guam 96932

RESOLUTION NO. 2012-80

**AUTHORIZING THE MANAGEMENT OF THE GUAM POWER AUTHORITY (GPA) TO PROCEED
WITH THE EXTENSION OF THE CONTRACT FOR THE SUPPLY OF RESIDUAL FUEL OIL NO. 6
(GPA-001-10) WITH PETROBAS**

WHEREAS, GPA's management entered into a contract pursuant to GPA-001-10, Supply of Residual Fuel Oil No. 6 with Petrobras Singapore Pte., Ltd. (PSPL), as approved by the Consolidated Commission on Utilities on January 12, 2010 through adoption of Resolution No. 2010-09; and

WHEREAS, the three-year (3-year) Contract Period is expiring on February 28, 2013; and

WHEREAS, the Authority released an Invitation For Bid for the Supply of Residual Fuel Oil No. 6 in September 2012 as approved by the Consolidated Commission on Utilities on July 10, 2012 through adoption of Resolution No. 2012-42; and

WHEREAS, the Authority anticipates awarding a contract by March 2013, however, GPA would need to provide adequate mobilization period for the new supplier; and

WHEREAS, GPA and PSPL have negotiated and agreed to a six-month extension up to August 2013, at a premium fee of \$92.80 / MT for HSFO and \$ 117.80 /MT for LSFO; and

WHEREAS, GPA management considers the extension to be reasonable, in the best interests of GPA and its customers, and to allow for adequate transition to the new fuel supplier; and

WHEREAS, GPA requests for authorization for a six-month contract extension of the current contract with Petrobas from March 2013 to August 2013.

NOW THEREFORE, BE IT RESOLVED, by the Consolidated Commission on Utilities, subject to the review and approval of the Guam Public Utilities Commission, as follows:

1. The Consolidated Commission on Utilities finds the negotiated contract price for the six-month extension to be reasonable, prudent and beneficial to GPA and its customers.

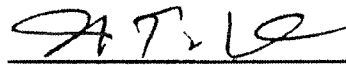
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2. GPA is hereby authorized to proceed with the six-month extension of contract GPA-001-12 for the Supply of Residual Fuel Oil No. 6, for a period not to exceed six months, from March 1, 2013 to August 31, 2013, at premium fees of \$92.80/MT for HSFO and \$117.80 / MT for LSFO.

SO RESOLVED AND DULY AND REGULARLY ADOPTED this 12th day of December, 2012.

Certified by:

Attested by:



SIMON A. SANCHEZ
Chairperson
Consolidated Commission on Utilities

JOSEPH T. DUENAS
Secretary
Consolidated Commission on Utilities

SECRETARY'S CERTIFICATION

I, **JOSEPH T. DUENAS**, Secretary, Consolidated Commission on Utilities, hereby certifies as follows;

The foregoing is a full, true, and correct copy of a resolution duly adopted at a regular meeting of the members of the Consolidated Commission on Utilities of the Guam Power Authority duly and legally held at the meeting place thereof on December 12, 2012, at which meeting all of the said members had due notice and at which at least a majority thereof were present.

At said meeting, said resolution was adopted by the following vote:

Ayes	<u>4</u>
Nays	<u>0</u>
Abstain	<u>0</u>
Absent	<u>0</u>

Said original resolution has not been amended, modified, or rescinded since the date of its adoption, and the same is now in full force and in effect.

SO CERTIFIED this 12TH DAY OF DECEMBER, 2012



JOSEPH P. DUENAS
Secretary, Consolidated Commission on Utilities

Contract Discussion

Price

For each option of extension, the premiums to be applied over the Mean of Platts Singapore 180cst (MOPS 180) are as follows:

Option 1) (6 months) HSFO: +92.80 LSF0: +117.80
Option 2) (1 year) HSFO: +92.55 LSF0: +117.55

Projected Premium Fee Cost for 6 months (March 01, 2013-August 31, 2013)	Current Contract GPA-001-10	Contract Extn GPA-001-10	New Bid GPA-068-12 Bid
	Petrobras Singapore Pte., Ltd.	Petrobras Singapore Pte., Ltd.	Vitol Asia Pte., Ltd.
1. LSFO, 1.19% Sulfur max.			
Premium Fee Cost (\$/mt)	\$42.910	\$117.800	\$118.050
Premium Fee Cost (\$/bbl)	\$6.501	\$18.406	\$18.445
Estimated Quantity (bbls/month)	69,000	69,000	69,000
Total for 6 months (bbls)	414,000	414,000	414,000
Total Premium Fee Cost (\$)	\$2,691,414.00	\$7,620,187.50	\$7,636,359.38
Variance w/ current Contract		\$4,928,773.50 183%	\$4,944,945.38 184%
Variance w/ Contract Extn			\$16,171.88 0.33%
2. HSFO, 2.00% Sulfur max.			
Premium Fee Cost (\$/mt)	\$20.440	\$92.550	\$93.050
Premium Fee Cost (\$/bbl)	\$4.499	\$14.461	\$14.539
Estimated Quantity (bbls/month)	161,000	161,000	161,000
Total for 6 months (bbls)	966,000	966,000	966,000
Total Premium Fee Cost (\$)	\$4,346,034.00	\$13,969,265.63	\$14,044,734.38
Variance w/ current Contract		\$9,623,231.63 221%	\$9,698,700.38 223%
Variance w/ Contract Extn			\$75,468.75 0.78%
3. Total RFO			
Premium Fee Cost (\$/mt)	\$32.637	\$100.125	\$100.550
Premium Fee Cost (\$/bbl)	\$5.100	\$15.645	\$15.711
Estimated Quantity (bbls/month)	230,000	230,000	230,000
Total for 6 months (bbls)	1,380,000	1,380,000	1,380,000
Total Premium Fee Cost (\$)	\$7,037,448.00	\$21,589,453.13	\$21,681,093.75
Variance w/ current Contract		\$14,552,005.13 207%	\$14,643,645.75 208%
Variance w/ Contract Extn			\$91,640.63 0.63%



PETROBRAS
SINGAPORE PRIVATE LTD.

FEBRUARY 2ND, 2013

To:
GUAM POWER AUTHORITY
Aturidat Ilekthresedat Guahan
P. O. Box 2977, Hagatna
Guam 96932-2977

FUEL OIL SUPPLY CONTRACT EXTENSION

REF: GUAM POWER AUTHORITY - PETROBRAS SINGAPORE PRIVATE LTD - FUEL OIL SUPPLY
CONTRACT GPA-001-10

WE ARE PLEASED TO PRESENT THE FOLLOWING TERMS AND CONDITIONS:

1. BUYER:
GUAM POWER AUTHORITY
ATURIDAT ILEKTHRESEDAT GUAHAN
P. O. BOX 2977, HAGATNA
GUAM 96932-2977
2. SELLER:
PETROBRAS SINGAPORE PRIVATE LTD
8 EU TONG SEN STREET
22-89 THE CENTRAL
SINGAPORE - 059818
3. PRODUCT: FUEL OIL
4. QUALITY:

THE FUEL OIL DELIVERED HEREUNDER SHALL HAVE THE PHYSICAL AND CHEMICAL
CHARACTERISTICS AS DESCRIBED IN THE FOLLOWING TABLE:

Description	Unit of Measure	Test Method	Alternative Method	Minimum Allowed	Maximum Allowed
Sulphur Content	%mass	ASTM D-4294	ASTM D-2622	N/A	LSFO= 1.19 HSFO = 2.00
Pour Point	Deg C	ASTM D-97	N/A	N/A	21
Flash Point	Deg C	ASTM D-93	N/A	66	N/A
Kinematic Viscosity	cSt at 50°C	ASTM D-445	ASTM D-2161		180
Sediment by Extraction	%mass	ASTM D-473	N/A	N/A	0.1



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Water by Distillation	% by volume	ASTM D-95	N/A	N/A	0.5
Vanadium Content	Parts per million	ASTM D-5708	a) UOP 800 b) ASTM D-5184 c) ASTM D-5863 d) IP 501 e) IP 433 f) ISO 14597 g) IP 470 h) IP 465 i) EN 13131	N/A	100
Silicon Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	Combined Al+Si Not to exceed 70 ppm.
Aluminum Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	
Guaranteed Gross Heating Value (HHV)	Million BTU per US Barrel	ASTM D-240	N/A	6.3	N/A
Micro-Carbon Residue	%mass	ASTM D-4530	ASTM D-5245 ASTM D-189	N/A	15
Ash	%mass	ASTM D-482	N/A	N/A	0.1
Asphaltenes	%mass	ASTM D-6560	IP 143	N/A	7
Sodium	ppm	ASTM D-5863/B	ASTM D-5708/B IP 288	N/A	80
Total Sediment (Existent)	%mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.15
Compatibility	a) Cleanliness ratio	ASTM D-4740	N/A	N/A	a) 2
	b) Compatibility ratio				b) 2
API Gravity		ASTM D-287	ASTM D-1298 and conversion	11.2	23
Density at 15°C	Kg/L	ASTM D-287	ASTM D-1298 ASTM D-4052		0.991
Odour				Report	
Hydrogen Sulfide content (in liquid phase)	Mg/kg	IP-399	IP-570	N/A	2
Used lubricating Oil (ULO)				The fuel shall be free of ULO	
Zinc	Mg/kg	IP-501	IP 470		15
Phosphorus	Mg/kg	IP-501	IP 500		15
Calcium	Mg/kg	IP-501	IP 470		30

5. CONTRACT PERIOD

THIS CONTRACT TERM SHALL BE FOR SIX (6) MONTHS AND SHALL COMMENCE ON MARCH 1, 2013 AND SHALL CONTINUE UNTIL MIDNIGHT OF AUGUST 31, 2013, WITH OPTION TO EXTEND FOR ONE (1) ADDITIONAL SIX (6) MONTHS TERM, UPON MUTUAL AGREEMENT OF BOTH PARTIES.



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6. QUANTITY

CONTRACTOR AGREES TO FURNISH AND GPA AGREES TO ACCEPT AND PAY FOR ALL OF GPA'S RESIDUAL FUEL OIL REQUIREMENTS FOR POWER GENERATING PLANTS IN GUAM FOR THE TERM OF THE CONTRACT. THE ESTIMATED TOTAL FUEL OIL REQUIREMENT IS ABOUT ONE MILLION AND FIVE HUNDRED THOUSAND BARRELS PER SEMESTER (1,500,000 BBL/SEMESTER).

THE MINIMUM PURCHASE UNDER THE CONTRACT IS 150,000 METRIC TONS PER SEMESTER. THE MAXIMUM PURCHASE UNDER THE CONTRACT IS 250,000 METRIC TONS PER SEMESTER. THE MINIMUM LOT SIZE REQUIRED FOR EACH DELIVERY IS 35,000MT.

7. DELIVERY

DES CABRAS ISLAND, GUAM. ANY DEVIATION REQUESTED BY BUYER SHALL BE FOR BUYER'S ACCOUNT AND SUBJECT TO SELLER'S APPROVAL.

8. PRICE

8.1. LOW SULPHUR FUEL OIL (LSFO): (1.19%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 117.80/MT (ONE HUNDRED AND SEVENTEEN DOLLARS AND EIGHTY CENTS PER METRIC TON).

8.2. HIGH SULPHUR FUEL OIL (HSFO): (2.00%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM; PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 92.80/MT (NINETY TWO DOLLARS AND EIGHTY CENTS PER METRIC TON).

8.3. IN CASE "NO POSTING" ON THE B/L DATE, NO PRICE WILL BE USED AND THE REMAINING 10-DAYS AVERAGE PRICE WILL BE USED. ALL PRICE POSTINGS ARE AT THE PRICES EFFECTIVE DATES.

8.4. FOR INVOICE CALCULATION PURPOSE, QUANTITY SHALL BE REPORTED IN METRIC TONNES AS DECLARED IN BILL OF LADING.

9. PAYMENT

PAYMENT SHALL BE MADE IN US DOLLARS FUNDS WITHOUT OFFSET, DEDUCTION OR COUNTERCLAIM WITHIN THIRTY (30) CALENDAR DAYS (30 DAYS NET TERM) AFTER THE BILL OF LADING DATE PROVIDED VESSEL TENDERS ITS NOR WITHIN FIFTEEN (15) DAYS AFTER THE B/L DATE, OTHERWISE IT EXTENDS DAY BY DAY (B/L DATE INCLUSIVE). IN CASE PAYMENT DUE ON BANK HOLIDAY OR SATURDAY IN GUAM, PAYMENT SHALL BE MADE IMMEDIATELY PRECEDING BANKING DAY. HOWEVER, SHOULD PAYMENT DUE FALLS ON SUNDAY OR MONDAY BANK HOLIDAY IN GUAM, PAYMENT SHALL BE MADE ON THE IMMEDIATELY FOLLOWING BANKING DAY.

THERE WILL BE NO AVAILABLE CREDIT LINE FOR GPA. LETTER OF CREDIT SHALL BE OPENED NO LATER THAN TWO DAYS BEFORE THE BEGINNING OF LOADING WINDOW AT A FIRST CLASS INTERNATIONAL BANK MUTUALLY AGREEABLE TO BOTH GPA AND THE CONTRACTOR.



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PAYMENT SHALL BE AVAILABLE AT SELLER'S ACCOUNT ON MATURITY DATE. IF BUYER FAILS TO PAY ON THE MATURITY DATE, SELLER SHALL BE REIMBURSED FOR THE INTERESTS RELATED TO THE TIME OF DELAY. INTEREST RATE SHALL BE CALCULATED BASED ON THE ONE MONTH LONDON INTERBANK OFFERED RATE (LIBOR) FOR US DOLLAR DEPOSITS OFFERED BY BLOOMBERG PUBLICATION AT 11:00 A.M. LONDON TIME, AS QUOTED ON PAGE BBAM IN EFFECT ON THE DATE BUYER'S PAYMENT WAS DUE, PLUS THREE PERCENT (3.0%) PER ANNUM.

10. GOVERNING LAW AND DISPUTES:

THIS CONTRACT SHALL IN ALL RESPECTS BE GOVERNED BY LAWS OF GUAM. THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ARE EXPRESSLY EXCLUDED.

THIS CONTRACT SHALL NOT BE CONSTRUED TO CONFER ANY BENEFIT ON ANY PERSON NOT BEING A PARTY TO THIS CONTRACT NOR SHALL IT PROVIDE ANY RIGHTS TO SUCH PERSON TO ENFORCE ANY OF ITS PROVISIONS. THE PROVISIONS OF THE ENGLISH CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 ARE EXPRESSLY EXCLUDED.

IN THE EVENT OF ANY CONTROVERSY, DISPUTE OR DIFFERENCE OF ANY NATURE (A "DISPUTE") BETWEEN THE PARTIES ARISING FROM OR IN CONNECTION WITH THIS CONTRACT, EITHER PARTY MAY GIVE NOTICE TO THE OTHER IN WRITING OF THE EXISTENCE OF SUCH DISPUTE SPECIFYING ITS NATURE AND THE POINTS AT ISSUE. IF THE DISPUTE SHALL NOT HAVE BEEN AMICABLY RESOLVED WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF SAID NOTICE, THEN THE SAME SHALL BE EXCLUSIVELY AND DEFINITELY RESOLVED THROUGH FINAL AND BINDING ARBITRATION IN NEW YORK, BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), IN ACCORDANCE WITH THE RULES OF ARBITRATION OF SUCH INSTITUTION IN EFFECT AS OF THE DATE THE EXISTENCE OF THE CONTROVERSY IS NOTIFIED BY ONE OF THE PARTIES. THE ARBITRATION SHALL BE CONDUCTED BY THREE ARBITRATORS, UNLESS ALL PARTIES TO THE DISPUTE AGREE TO A SOLE ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE FILING OF THE ARBITRATION. EACH PARTY TO THE DISPUTE SHALL APPOINT ONE ARBITRATOR WITHIN THIRTY (30) DAYS OF THE FILING OF THE ARBITRATION, AND THE TWO ARBITRATORS SO APPOINTED SHALL SELECT THE PRESIDING ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE LATTER OF THE TWO ARBITRATORS HAVE BEEN APPOINTED BY THE PARTIES TO THE DISPUTE. IF A PARTY TO THE DISPUTE FAILS TO APPOINT ITS PARTY-APPOINTED ARBITRATOR OR IF THE TWO PARTY-APPOINTED ARBITRATORS CANNOT REACH AN AGREEMENT ON THE PRESIDING ARBITRATOR WITHIN THE APPLICABLE TIME PERIOD, THEN LCIA SHALL APPOINT THE REMAINDER OF THE THREE ARBITRATORS. THE ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN ENGLISH AND THE ARBITRATOR(S) SHALL BE FLUENT IN THE ENGLISH LANGUAGE. THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE FINAL AND BINDING. JUDGMENT ON THE AWARD OF THE ARBITRAL TRIBUNAL MAY BE ENTERED AND ENFORCED IN ANY COURT HAVING JURISDICTION THEREOF. THE COSTS OF THE ARBITRATION PROCEEDINGS, INCLUDING ATTORNEYS' FEES, SHALL BE BORNE IN THE MANNER DETERMINED BY THE ARBITRAL TRIBUNAL. ANY RIGHT TO APPEAL OR CHALLENGE ANY ARBITRAL DECISION OR AWARD IS HEREBY WAIVED. THE PARTIES MAY SEEK A PRELIMINARY INJUNCTION OR OTHER PRELIMINARY JUDICIAL RELIEF, IF IN ITS JUDGMENT SUCH ACTION IS NECESSARY TO AVOID IRREPARABLE DAMAGE. IT IS EXPRESSLY AGREED THAT INDIRECT, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES SHALL NOT BE AWARDED.

11. LAYTIME AND DEMURRAGE:

11.1. LAYTIME: SHIP LAYTIME OF THIRTY-SIX (36) HOURS AT THE DISCHARGE PORT SHALL COMMENCE SIX (6) HOURS AFTER THE TENDER OF NOTICE OF READINESS (NOR) OR WHEN THE VESSEL BERTHS, WHICHEVER OCCURS FIRST, AND TO CEASE UPON LAST CARGO HOSES DISCONNECTION.

11.2. DEMURRAGE: AS PER CHARTER PARTY RATES. CLAIMS SHALL BE SUBMITTED TO GPA WITHIN 90 DAYS AFTER BILL OF LADING DATE. AFTER THIS PERIOD, NO CLAIMS SHALL BE ACCEPTED BY ANY PARTIES.



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12. OTHER TERMS:

AS PER PETROBRAS SINGAPORE PRIVATE LIMITED – GUAM POWER AUTHORITY CONTRACT REF GPA-001-10 WITH ITS AMENDMENTS NUMBER 1 AND 2, EXCEPT FOR THE AMENDMENTS MENTIONED BELOW. THESE SECTIONS SUPERSEDES ANY OTHER SECTIONS IN THE AGREEMENT, PROPOSAL, RECAP OR CONTRACT. ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN THE SAME.

Section 1.02. FUEL OIL TO BE SUPPLIED
SHALL BE DELETED ENTIRELY.
AND REPLACE WITH:

CONTRACTOR AGREES TO FURNISH AND GPA AGREES TO ACCEPT AND PAY FOR ALL OF GPA'S RESIDUAL FUEL OIL REQUIREMENTS FOR POWER GENERATING PLANTS IN GUAM FOR THE TERM OF THE CONTRACT. THE ESTIMATED TOTAL FUEL OIL REQUIREMENT IS ABOUT ONE MILLION AND FIVE HUNDRED THOUSAND BARRELS PER SEMESTER (1,500,000 BBL/SEMESTER).

THE MINIMUM PURCHASE UNDER THE CONTRACT IS 150,000 METRIC TONS PER SEMESTER. THE MAXIMUM PURCHASE UNDER THE CONTRACT IS 250,000 METRIC TONS PER SEMESTER. THE MINIMUM LOT SIZE REQUIRED FOR EACH DELIVERY IS 35,000MT.

Section 1.03. TERM
PARAGRAPH 2: SHALL BE DELETED ENTIRELY AND REPLACE WITH:

THIS CONTRACT TERM SHALL BE FOR SIX (6) MONTHS AND SHALL COMMENCE ON MARCH 1, 2013 AND SHALL CONTINUE UNTIL MIDNIGHT OF AUGUST 31, 2013, WITH OPTION TO EXTEND FOR ONE (1) ADDITIONAL SIX (6) MONTHS TERM, UPON MUTUAL AGREEMENT OF BOTH PARTIES.

Section 1.04. CONTRACT PRICE
ADD:
FIXED PREMIUM FEE FOR THE SIX (6) MONTHS CONTRACT EXTENSION FROM MARCH 1ST 2013 TO AUGUST 31, 2013 SHALL BE AS FOLLOWS:

1. LOW SULPHUR FUEL OIL (LSFO): (1.19% SULPHUR MAX): USD 117.80/MT (ONE HUNDRED AND SEVENTEEN DOLLARS AND EIGHTY CENTS PER METRIC TON)
2. HIGH SULPHUR FUEL OIL (HSFO): (2% SULPHUR MAX): USD 92.80/MT (NINETY TWO DOLLARS AND EIGHTY CENTS PER METRIC TON).

Section 1.05 INVOICE PRICE DETERMINATION
SHALL BE DELETED ENTIRELY.
AND REPLACE WITH:

LOW SULPHUR FUEL OIL (LSFO): (1.19%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 117.80/MT (ONE HUNDRED AND SEVENTEEN DOLLARS AND EIGHTY CENTS PER METRIC TON).



PETROBRAS
SINGAPORE PRIVATE LTD.

HIGH SULPHUR FUEL OIL (HSFO): (2.00%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 92.80/MT (NINETY TWO DOLLARS AND EIGHTY CENTS PER METRIC TON).

IN CASE "NO POSTING" ON THE B/L DATE, NO PRICE WILL BE USED AND THE REMAINING 10-DAYS AVERAGE PRICE WILL BE USED. ALL PRICE POSTINGS ARE AT THE PRICES EFFECTIVE DATES.

FOR INVOICE CALCULATION PURPOSE, QUANTITY SHALL BE REPORTED IN METRIC TONNES AS DECLARED IN BILL OF LADING.

Section 1.07 TERMS OF PAYMENT
 SHALL BE DELETED ENTIRELY.
 AND REPLACE WITH:

PAYMENT SHALL BE MADE IN US DOLLARS FUNDS WITHOUT OFFSET, DEDUCTION OR COUNTERCLAIM WITHIN THIRTY (30) CALENDAR DAYS (30 DAYS NET TERM) AFTER THE BILL OF LADING DATE PROVIDED VESSEL TENDERS ITS NOR WITHIN FIFTEEN (15) DAYS AFTER THE B/L DATE, OTHERWISE IT EXTENDS DAY BY DAY (B/L DATE INCLUSIVE). IN CASE PAYMENT DUE ON BANK HOLIDAY OR SATURDAY IN GUAM, PAYMENT SHALL BE MADE IMMEDIATELY PRECEDING BANKING DAY. HOWEVER, SHOULD PAYMENT DUE FALLS ON SUNDAY OR MONDAY BANK HOLIDAY IN GUAM, PAYMENT SHALL BE MADE ON THE IMMEDIATELY FOLLOWING BANKING DAY.

THERE WILL BE NO AVAILABLE CREDIT LINE FOR GPA. LETTER OF CREDIT SHALL BE OPENED NO LATER THAN TWO DAYS BEFORE THE BEGINNING OF LOADING WINDOW AT A FIRST CLASS INTERNATIONAL BANK MUTUALLY AGREEABLE TO BOTH GPA AND THE CONTRACTOR. PAYMENT SHALL BE AVAILABLE AT SELLER'S ACCOUNT ON MATURITY DATE. IF BUYER FAILS TO PAY ON THE MATURITY DATE, SELLER SHALL BE REIMBURSED FOR THE INTERESTS RELATED TO THE TIME OF DELAY. INTEREST RATE SHALL BE CALCULATED BASED ON THE ONE MONTH LONDON INTERBANK OFFERED RATE (LIBOR) FOR US DOLLAR DEPOSITS OFFERED BY BLOOMBERG PUBLICATION AT 11:00 A.M. LONDON TIME, AS QUOTED ON PAGE BBAM IN EFFECT ON THE DATE BUYER'S PAYMENT WAS DUE, PLUS THREE PERCENT (3.0%) PER ANNUM.

Section 1.10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
 SHALL BE DELETED ENTIRELY.

Section 2.01 PRODUCT AND QUALITY
 SHALL BE DELETED ENTIRELY.
 AND REPLACE WITH:

THE FUEL OIL DELIVERED HEREUNDER SHALL HAVE THE PHYSICAL AND CHEMICAL CHARACTERISTICS AS DESCRIBED IN THE FOLLOWING TABLE:

Description	Unit of Measure	Test Method	Alternative Method	Minimum Allowed	Maximum Allowed
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Sulphur Content	%mass	ASTM D-4294	ASTM D-2622	N/A	LSFO= 1.19 HSFO = 2.00
Pour Point	Deg C	ASTM D-97	N/A	N/A	21
Flash Point	Deg C	ASTM D-93	N/A	66	N/A
Kinematic Viscosity	cSt at 50°C	ASTM D-445	ASTM D-2161		180
Sediment by Extraction	%mass	ASTM D-473	N/A	N/A	0.1
Water by Distillation	% by volume	ASTM D-95	N/A	N/A	0.5
Vanadium Content	Parts per million	ASTM D-5708	a) UOP 800 b) ASTM D-5184 c) ASTM D-5863 d) IP 501 e) IP 433 f) ISO 14597 g) IP 470 h) IP 465 i) EN 13131	N/A	100
Silicon Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	Combined Al+Si Not to exceed 70 ppm.
Aluminum Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	
Guaranteed Gross Heating Value (HHV)	Million BTU per US Barrel	ASTM D-240	N/A	6.3	N/A
Micro-Carbon Residue	%mass	ASTM D-4530	ASTM D-5245 ASTM D-189	N/A	15
Ash	%mass	ASTM D-482	N/A	N/A	0.1
Asphaltenes	%mass	ASTM D-8560	IP 143	N/A	7
Sodium	ppm	ASTM 5863/B	ASTM D-5708/B IP 288	N/A	80
Total Sediment (Existent)	%mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.15
Compatibility	a) Cleanliness ratio	ASTM D-4740	N/A	N/A	a) 2
	b) Compatibility ratio				b) 2
API Gravity		ASTM D-287	ASTM D-1298 and conversion	11.2	23
Density at 15°C	Kg/L	ASTM D-287	ASTM D-1298 ASTM D-4052		0.991
Odour				Report	
Hydrogen Sulfide content (in liquid phase)	Mg/kg	IP-399	IP-570	N/A	2
Used lubricating Oil (ULO)				The fuel shall be free of ULO	
Zinc	Mg/kg	IP-501	IP 470		15



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Phosphorus	Mg/kg	IP-501	IP 500		15
Calcium	Mg/kg	IP-501	IP 470		30

NOTE ITEM 16: CONTRACTOR SHALL ENSURE THAT EACH SHIPMENT OF FUEL OIL IS COMPATIBLE WITH A REPRESENTATIVE SAMPLE OF THE PREVIOUS SHIPMENT OF THE SAME GRADE. TESTING FOR COMPATIBILITY WILL BE CONDUCTED AT LOADPORT ACCORDING TO THE TEST METHOD ASTM D-4740 MUTUALLY AGREED BETWEEN BOTH PARTIES AND THE CONTRACTOR WILL GUARANTEE SPOT RATING OF 2 OR BETTER. THE AUTHORITY RESERVES THE RIGHT TO REQUIRE THE SUPPLIER TO ADD AND TO CONDUCT ADDITIONAL TESTS AS MAY BE REQUIRED.

Section 3.03 SPECIFICATIONS
 SHALL BE DELETED ENTIRELY.

Section 3.05 FORCE MAJURE
 PLEASE ADD THE FOLLOWING PARAGRAPH: "FORCE MAJEURE CLAIMS SHALL BE SUBMITTED WITHIN SIXTY (60) DAYS. AFTER THIS PERIOD, NO CLAIMS SHALL BE ACCEPTED BY ANY PARTIES."

12.10. Section 3.11 DISPUTES
 SHALL BE DELETED ENTIRELY
 AND REPLACE WITH:

GOVERNING LAW AND DISPUTES:

THIS CONTRACT SHALL IN ALL RESPECTS BE GOVERNED BY LAWS OF GUAM. THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ARE EXPRESSLY EXCLUDED.

THIS CONTRACT SHALL NOT BE CONSTRUED TO CONFER ANY BENEFIT ON ANY PERSON NOT BEING A PARTY TO THIS CONTRACT NOR SHALL IT PROVIDE ANY RIGHTS TO SUCH PERSON TO ENFORCE ANY OF ITS PROVISIONS. THE PROVISIONS OF THE ENGLISH CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 ARE EXPRESSLY EXCLUDED.

IN THE EVENT OF ANY CONTROVERSY, DISPUTE OR DIFFERENCE OF ANY NATURE (A "DISPUTE") BETWEEN THE PARTIES ARISING FROM OR IN CONNECTION WITH THIS CONTRACT, EITHER PARTY MAY GIVE NOTICE TO THE OTHER IN WRITING OF THE EXISTENCE OF SUCH DISPUTE SPECIFYING ITS NATURE AND THE POINTS AT ISSUE. IF THE DISPUTE SHALL NOT HAVE BEEN AMICABLY RESOLVED WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF SAID NOTICE, THEN THE SAME SHALL BE EXCLUSIVELY AND DEFINITELY RESOLVED THROUGH FINAL AND BINDING ARBITRATION IN NEW YORK, BY THE AMERICAN ARBITRATION ASSOCIATION ('AAA'), IN ACCORDANCE WITH THE RULES OF ARBITRATION OF SUCH INSTITUTION IN EFFECT AS OF THE DATE THE EXISTENCE OF THE CONTROVERSY IS NOTIFIED BY ONE OF THE PARTIES. THE ARBITRATION SHALL BE CONDUCTED BY THREE ARBITRATORS, UNLESS ALL PARTIES TO THE DISPUTE AGREE TO A SOLE ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE FILING OF THE ARBITRATION. EACH PARTY TO THE DISPUTE SHALL APPOINT ONE ARBITRATOR WITHIN THIRTY (30) DAYS OF THE FILING OF THE ARBITRATION, AND THE TWO ARBITRATORS SO APPOINTED SHALL SELECT THE PRESIDING ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE LATTER OF THE TWO ARBITRATORS HAVE BEEN APPOINTED BY THE PARTIES TO THE DISPUTE. IF A PARTY TO THE DISPUTE FAILS TO APPOINT ITS PARTY-APPOINTED ARBITRATOR OR IF THE TWO PARTY-APPOINTED ARBITRATORS CANNOT REACH AN AGREEMENT ON THE PRESIDING ARBITRATOR



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WITHIN THE APPLICABLE TIME PERIOD, THEN LCIA SHALL APPOINT THE REMAINDER OF THE THREE ARBITRATORS. THE ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN ENGLISH AND THE ARBITRATOR(S) SHALL BE FLUENT IN THE ENGLISH LANGUAGE. THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE FINAL AND BINDING. JUDGMENT ON THE AWARD OF THE ARBITRAL TRIBUNAL MAY BE ENTERED AND ENFORCED IN ANY COURT HAVING JURISDICTION THEREOF. THE COSTS OF THE ARBITRATION PROCEEDINGS, INCLUDING ATTORNEYS' FEES, SHALL BE BORNE IN THE MANNER DETERMINED BY THE ARBITRAL TRIBUNAL. ANY RIGHT TO APPEAL OR CHALLENGE ANY ARBITRAL DECISION OR AWARD IS HEREBY WAIVED. THE PARTIES MAY SEEK A PRELIMINARY INJUNCTION OR OTHER PRELIMINARY JUDICIAL RELIEF, IF IN ITS JUDGMENT SUCH ACTION IS NECESSARY TO AVOID IRREPARABLE DAMAGE. IT IS EXPRESSLY AGREED THAT INDIRECT, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES SHALL NOT BE AWARDED

Section 3.14 TRANSPORTATION
(c1) SHIP DEMURRAGE

ADD AFTER SECOND PARAGRAPH:

"AFTER THIS PERIOD, NO CLAIMS SHALL BE ACCEPTED BY ANY PARTIES."

Section 4.05 DEFAULT
SHALL BE DELETED ENTIRELY AND REPLACED BY:

"IF THE PARTY REFUSES OR FAILS TO PERFORM ANY OF THEIR OBLIGATIONS UNDER THIS AGREEMENT, NON-BREACHING PARTY SHALL NOTIFY THE PARTY EITHER BY E-MAIL OR IN WRITING WITHIN THIRTY (30) DAYS OF THE BREACH. IF THE PARTY DOES NOT REMEDY THE BREACH WITHIN 30 DAYS AFTER THE DATE OF NOTIFICATION, NON-BREACHING PARTY MAY BY GIVING WRITTEN NOTICE TO PARTY TERMINATE THE AGREEMENT IN WHOLE OR SUSPEND TAKING OF DELIVERY UNDER THE CONTRACT.

IN THE EVENT OF PARTIAL TERMINATION OR SUSPENSION UNDER THIS PROVISION, GPA RESERVES THE RIGHT TO PROCURE FUEL OIL SUPPLY FROM ANOTHER SOURCE IMMEDIATELY UPON NOTIFICATION TO CONTRACTOR EITHER BY E-MAIL OR IN WRITING. FUEL TO BE PROCURED SHALL BE AT THE PREVAILING MARKET RATE AND THE CONTRACTOR SHALL BE LIABLE FOR THE DIFFERENCE BETWEEN THE CONTRACT PRICE AND THE PREVAILING MARKET PRICE AT THE TIME OF PARTIAL TERMINATION OR SUSPENSION.

IN THE EVENT OF TERMINATION, THE CONTRACTOR SHALL NOT BE LIABLE FOR THE DIFFERENCE BETWEEN THE CONTRACT PRICE AND THE PREVAILING MARKET PRICE AT THE TIME OF TERMINATION."

Section 5.04 ASSIGNMENT
SHALL BE DELETED ENTIRELY AND REPLACED BY:

"NEITHER PARTY SHALL HAVE THE RIGHT TO TRANSFER OR ASSIGN THIS AGREEMENT, IN WHOLE OR IN PART, OR ANY RIGHT AND OBLIGATIONS ARISING THEREFROM, TO A THIRD PARTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER PARTY, SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD. ANY ATTEMPTED ASSIGNMENT OR TRANSFER WITHOUT SUCH PRIOR CONSENT SHALL BE NULL AND VOID.



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NOTWITHSTANDING THE FOREGOING, BOTH PARTIES SHALL HAVE THE RIGHT TO ASSIGN THIS AGREEMENT TO AN AFFILIATE WITHOUT THE OTHER PARTY'S WRITTEN CONSENT REQUIRED. IN CASE OF SUCH ASSIGNMENT, THE ASSIGNING PARTY SHALL INFORM THE OTHER PARTY THEREOF IN WRITING AND WITHOUT UNDUE DELAY.

FOR THE PURPOSES OF THIS AGREEMENT, "AFFILIATE" MEANS ANY COMPANY OR LEGAL ENTITY WHICH (A) CONTROLS EITHER DIRECTLY OR INDIRECTLY A PARTY HERETO, OR (B) IS CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PARTY, OR (C) IS DIRECTLY OR INDIRECTLY CONTROLLED BY A COMPANY OR ENTITY WHICH DIRECTLY OR INDIRECTLY CONTROLS SUCH PARTY. "CONTROL" FOR PURPOSES OF THE PREVIOUS SENTENCE MEANS THE ABILITY TO DIRECT THE MANAGEMENT AND POLICIES OF A COMPANY OR LEGAL ENTITY, WHETHER THROUGH OWNERSHIP OF SECURITIES, BY CONTRACT OR OTHERWISE.

THIS AGREEMENT SHALL BE BINDING UPON, AND INURE TO THE BENEFIT OF THE SUCCESSORS AND PERMITTED ASSIGNEES OF THE PARTIES."

Section 5.08 GOVERNING LAW
SHALL BE DELETED ENTIRELY.

VENINA VELOSA DA FONSECA
MANAGING DIRECTOR
PETROBRAS SINGAPORE PTE LTD

JOAQUIN C. FLORES, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

Venina Velosa da Fonseca
Managing Director
Petrobras Singapore Private Limited
Reg. No. 200604967H



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 HAGATNA, GUAM U.S.A. 96932-2977

January 15, 2013

Goh Jing Hwee
Trading Manager
Vitol Asia PTE Ltd
260 Orchard Road
#13-01 The Heeren
Singapore 238855
T: 65-6737-9922
F: 65-6887-0854

RE: NOTICE OF INTENT OF POSSIBLE AWARD ON INVITATION FOR BID
NO.: GPA-068-12 FOR SUPPLY OF RESIDUAL FUEL OIL NO. 6

Dear Mr. Hwee,

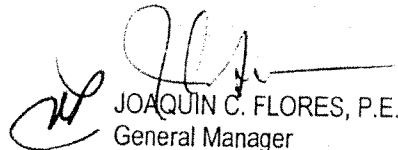
As a result of Invitation for Bid No.: GPA-068-12, your bid for the Supply of Residual Fuel Oil No. 6 in the total amount of \$184,688,125.00 for 6 months (March 01, 2013 thru September 30, 2013) is being considered for possible award. However, you are required to provide a Twenty-Five Million Dollars (\$25,000,000.00) Performance Bond as specified in Amendment No.: II to GPA-068-12, Item 19 (Performance and Payment Bonds), Part II of the Instructions to Bidders.

You are hereby advised that this Notice of Intent of possible award should not be construed as an award by Guam Power Authority. However, you are requested to submit your Performance Bond within fifteen (15) calendar days after receipt of this letter so that consideration of possible award and release of purchase order may be issued.

Your failure to submit the performance guarantee bond by the established deadline will result in delay of the award.

Your prompt response to this matter is requested.

Sincerely,


JOAQUIN C. FLORES, P.E.
General Manager

January 29, 2013

VIA HAND DELIVERY

Joaquin C. Flores, P.E.
General Manager
GUAM POWER AUTHORITY
GPA Central Office
1911 Route 16
Harmon, Guam 96926

**Re: PROTEST – INVITATION FOR BID
GPA-068-12; SUPPLY OF RESIDUAL FUEL OIL No. 6**

Dear Mr. Flores:

Jiershin GT OHNG & Company LLC (“Jiershin), through its legal counsel Calvo Fisher & Jacob LLP hereby submits this protest, in duplicate to the Invitation for Bid GPA-068-12, Supply of Residual Fuel Oil No. 6 (the “IFB”). This protest is being submitted pursuant to 5 G.C.A § 5425 and 2 GAR § 9101, et. seq.

NAME AND ADDRESS OF PROTESTOR

Jiershin GT OHNG & Company, LLC
#104 Pia Marine
193 Tumon Lane
Tamuning, Guam 96913

All communications regarding this protest should be directed to Calvo Fisher & Jacob LLP whose contact person is Ms. Janalynn Cruz Damian. Ms. Damian can be reached at (671) 646-9355.

IDENTIFICATION OF PROCUREMENT

This protest relates to the Guam Power Authority Invitation for Bid GPA-068-12, Supply of Residual Fuel Oil No. 6. To the knowledge of Jiershin, no contract has been awarded under the IFB.

Joaquin C. Flores, P.E.
January 29, 2013
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BACKGROUND

On August 31, 2012, the Guam Power Authority ("GPA") issued Invitation for Bid, GPA-068-12, Supply of Residual Fuel Oil No. 6 (the "IFB"). The IFB was for the supply of residual fuel oil including Low Sulfur Fuel Oil (LSFO) and High Sulfur Fuel Oil (HSFO), although GPA may also require the bidder to supply Residual Fuel Oil at 0.50% Sulfur and Residual Fuel Oil at 0.30% Sulfur. Pursuant to the IFB, the Contract shall be for three (3) years to commence on or about March 1, 2013 with two (2) year extension options, renewable annually upon mutual agreement of both parties. The Contract shall be awarded to the "lowest responsive and responsible bidder based on the *mandatory* bid, and provided it is in the best interest of the Government to accept his bid." (emphasis added.)

On October 4, 2012, GPA issued Amendment No. I to the IFB amending the Bid Process Milestones and postponing the Facility Site Visit to October 10, 2012. The cut-off date for receipt of bids was extended to November 16, 2012.

On October 23, 2012, GPA issued Amendment No. II wherein it notified prospective bidders of the changes and responses to inquiries received from SK Energy dated September 27, 2012, Petrobras Singapore Private Limited ("Petrobras") dated October 9, 2012, Guam Energy Solutions received October 10, 2012, Vitol Asia Pte. Ltd. ("Vitol") dated October 8, 2012 and RJS International Group dated October 9, 2012. These revisions included a change to Section 1.03 of the Contract Term. The new term of the contract would be for two (2) years commencing on March 1, 2013 until February 28, 2015 with options to extend for three (3) additional one (1) year terms, renewable annually upon mutual agreement of both parties. It also notified bidders that bids shall be accompanied by a bid guarantee of not less than five hundred thousand dollars (\$500,000.00) for which an award could be made.

On October 29, 2012, GPA issued Amendment No. III wherein it notified bidders of revisions to the Bid Form, now pages 16a -18a & 32a-33a of 70, to conform with the revisions to the contract term set forth in Amendment II. The mandatory bid, on which the Contract would be based, now required bid offers for LSFO and HSFO for the two (2) year contract base period, the first (1st) year contract extension, the second (2nd) year contract extension and the third (3rd) year contract extension.

On November 16, 2012, Jiershin submitted its bid to the IFB. The bid opening date was also November 16, 2012. Three companies submitted bids to the IFB: Jiershin, Petrobras and Vitol. The following are the bid responses:

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BIDDER:		Base Contract:	1 st Year:	2 nd Year:	3 rd Year:
Petrobras	LSFO	\$867.61	\$872.81	\$879.00	\$889.00
	HSFO	\$838.61	\$845.11	\$852.00	\$800.00
Vitol	LSFO	\$860.36	\$875.36	NO BID	NO BID
	HSFO	\$835.36	\$850.36	NO BID	NO BID
Jiershin	LSFO	\$849.31	\$903.31	\$903.31	\$903.31
	HSFO	\$799.31	\$873.31	\$873.31	\$873.31

On November 20, 2012, GPA requested that Jiershin provide additional information regarding financial stability and experience.

On November 26, 2012, Jiershin, through Hyundai Corporation, Jiershin's supplier of RFO, provided GPA with such documentation. Hyundai supplemented its response to GPA's request on November 28 and December 4, 2012. These documents included a letter from Hyundai confirming Hyundai's commitment to supply RFO to Jiershin for GPA and to provide a performance bond, Hyundai's audited financial statements for the past three years, and contracts evidencing Hyundai's experience in providing fuel oil to other companies. Jiershin has not received any further communications from GPA regarding the documentation provided by Hyundai.

In a Bid Status memorandum dated January 15, 2013, and received by Jiershin on January 16, 2013, GPA formally notified Jiershin that GPA had rejected Jiershin's bid ("Bid Status"). According to the Bid Status, GPA had rejected Jiershin's bid due to "[n]on-conformance with the [IFB] specifications; (failure to conform to the major requirements of the solicitation such as adequate experience in RFO Supply Contracts and sufficient proof of financial stability.)" The Bid Status also advised Jiershin that GPA was recommending award to Vitol, estimated RFO for six (6) months – March 1, 2013 through September 30, 2013.

On January 18, 2013, this office, on behalf of Jiershin, submitted to GPA a request for reconsideration of GPA's rejection of Jiershin's bid and for information regarding the IFB. Jiershin also requested documents pursuant to the Sunshine Reform Act of 1999 (5 G.C.A. § 10101 *et seq.*). As of the date of this Protest, no response has been received from GPA.

REASONS FOR PROTEST

Jiershin hereby protests GPA's rejection of its bid and recommendation of award to Vitol.

First, in the Bid Status dated January 15, 2013, GPA informed Jiershin that its bid had been rejected due to "[n]on-conformance with the [IFB] specifications; (failure to conform to the

Joaquin C. Flores, P.E.
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major requirements of the solicitation such as adequate experience in RFO Supply Contracts and sufficient proof of financial stability.)” However, GPA did not make a written determination of non-responsibility as required by 2 GAR § 3116(b)(5) despite GPA’s rejection of Jiershin’s bid for this reason. *See* 2 GAR § 3116(b)(5) (“If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Chief Procurement Officer, the Director of Public Works, or the head of a Purchasing Agency. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the procurement file.”)

Second, in response to a November 20, 2012 request from GPA to provide additional information regarding financial stability and experience, Jiershin, through Hyundai Corporation, Jiershin’s supplier of RFO, provided GPA with such documentation. These documents included a letter from Hyundai confirming Hyundai’s commitment to supply RFO to Jiershin for GPA and to provide a performance bond, Hyundai’s audited financial statements for the past three years, and contracts evidencing Hyundai’s experience in providing fuel oil to other companies. These documents are sufficient to establish Jiershin’s responsibility as a bidder. *See* 2 GAR Div. 4 § 3116(b)(3) (“The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request: ... (C) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.”)

Third, pursuant to the IFB and Amendment III, prospective bidders were required, as a mandatory bid, to submit pricing for the second year and third year contract extension. *See* Amendment III, at 16a (requiring as a “mandatory bid” the bid offer for LSFO and HSFO for two (2) year contract base period, first (1st) year contract extension, second (2nd) year contract extension and third (3rd) year contract extension). Vitol did not submit bid pricing for the second and third year contract extension despite the fact that it was mandatory and thus material. (*See* Abstract of Bids); *see* 5 G.C.A. § 5201(g) (“Responsive Bidder means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.”) Moreover, pursuant to 5 G.C.A. § 5008, “[a]ll procurement of supplies and services shall be made from among businesses licensed to do business on Guam” (*See also* IFB General Terms and Conditions.) Upon information and belief, Vitol does not appear to be licensed to do business on Guam. Accordingly, Vitol’s bid was non-responsive and should have been rejected by GPA.¹

¹ As demonstrated above, Vitol’s bid was clearly not the lowest bid. Based on Amendment III, the proposed contract would require a minimum of 330,000 metric tons per year and a maximum of 500,000 metric tons per year. Based on a maximum purchase of 500,000 metric tons per year, the difference in contract price between Vitol (\$423,930,000) and Jiershin (\$412,155,000) would be almost \$24 million for a two year term.

Joaquin C. Flores, P.E.
January 29, 2013
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Fourth, pursuant to Amendment II, prospective bidders were required to submit a bid guarantee deposit of not less than five hundred thousand dollars (\$500,000.00) for which an award can be made. However, Petrobras submitted a bid bond of five thousand dollars (\$5,000.00). (See Abstract of Bids.) Accordingly, Petrobras' bid was non-responsive and should have been rejected by GPA.

CONCLUSION

Based on the foregoing, Jiershin qualified as a responsible and responsive bidder pursuant to 5 G.C.A. § 5201. Further, for the reasons stated above, the bids submitted by Vitol and Petrobras were non-responsive and should have been rejected by GPA. Accordingly, as the lowest responsible and responsive bidder, Jiershin should have been awarded the bid for the IFB.

Further, pursuant to 2 GAR Div. 4 § 9109(c), this procurement must be stayed and no award of GPA068-12, Supply of Residual Fuel Oil No. 6, must be made until resolution of this protest.

As previously stated, Jiershin submitted a Sunshine Reform Act request and is awaiting GPA's production of documents pursuant to that request. When such documents are made available to Jiershin, Jiershin will supplement this Protest accordingly. Jiershin reserves all rights to assert any additional reasons for protest not identified here.

SUPPORTING DOCUMENTATION

The following documents, which Jiershin believes are included in GPA's procurement record for this IFB, support Jiershin's Protest. Jiershin reserves the right to supplement these documents based upon GPA's response to Jiershin's January 18 request for documentation.

1. Invitation for Bid No. GPA068-12 issued August 31, 2012;
2. Amendment No. I issued October 4, 2012;
3. Amendment No. II issued October 23, 2012;
4. Amendment No. III issued October 25, 2012;
5. Jiershin GT OHNG & Company, LLC's Bid Submission dated November 15, 2012;
6. Abstract of Bids;
7. Letter from Guam Power Authority to Jiershin GT OHNG & Company, LLC dated November 20, 2012;
8. Letter from Hyundai Corporation to Guam Power Authority dated November 26, 2012;

CALVO FISHER & JACOB LLP

Joaquin C. Flores, P.E.
January 29, 2013
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9. Letter from Hyundai Corporation to Guam Power Authority dated November 28, 2012, with attachments;
 - a. Non-Consolidation Financial Statements – December 31, 2009 and 2008 for Hyundai Corporation;
 - b. Non-Consolidation Financial Statements – December 31, 2010 and 2009 for Hyundai Corporation;
 - c. Separate Financial Statements for Hyundai Corporation – December 31, 2011;
 - d. High Sulfur Fuel Oil Supply Contract between Korea East-West Power Co., Ltd. and Hyundai Corporation;
 - e. Agreement between Viewsino PTE Ltd. and Hyundai Corporation;
 - f. Fuel Oil Supply Contract between Korea Western Power Co., Ltd. and Hyundai Corporation;
10. Letter from Hyundai Corporation to Guam Power Authority dated December 4, 2012;
11. Bid Status from Guam Power Authority to Kas Kim dated January 15, 2013;
12. Letter from Janalynn Cruz Damian to Guam Power Authority dated January 18, 2013.

We look forward to your expeditious response.

Sincerely,

CALVO FISHER & JACOB LLP



Janalynn Cruz Damian



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

February 05, 2013

Vitol Asia PTE Ltd
260 Orchard Road
#13-01 The Heeren
Singapore 238855
T: 65-6737-9922
F: 65-6887-0854

ATTENTION: Goh Jing Hwee
Trading Manager

RE: Invitation for Bid No.: GPA-068-12 for Supply of Residual Fuel Oil No. 6

Dear Mr. Hwee,

This is in response to your company's letter dated February 04, 2013 requesting the Authority afford Vitol Asia Pte. Ltd. the opportunity to supply Residual Fuel Oil No. 6 for the next six (6) months pending the outcome of the Stay of Procurement for GPA-068-12.

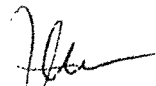
Until a determination is made and the protest is settled, the Authority is prohibited to make any awards, issue any purchase orders and/or contracts relative to Invitation for Bid No. GPA-068-12.

GPA entered into a contract pursuant to GPA-001-10, Supply of Residual Fuel Oil No. 6 with Petrobras Singapore Pte., Ltd. (PSPL). The Authority and Petrobras Singapore Pte., Ltd. (PSPL) have negotiated and agreed to a six-month extension which is considerably reasonable, and in the best interest of GPA and its customers. This allows ample time, until such issues are resolved and a contract is executed for IFB No.: GPA-068-12.

It is uncertain on when a determination will be issued. However, GPA is moving aggressively in issuing a response to the Stay of Procurement.

Should you need any further information, please do not hesitate to contact Mrs. Jamie L.C. Pangelinan, Supply Management Administrator at (671) 648-3054/55 or fax 648-3165.

Respectfully,


JOAQUIN C. FLORES, P.E.
General Manager



Vitol Singapore Pte Ltd

260 Orchard Road
#13-01 The Heeren
Singapore 238855
Telephone : (65) 6737 9922
Facsimile : (65) 6737 0917
Telex : RS 33473 Vitol

Co. Regn. No. 197902720E

Dear Mr. Reyes and Ms. Pangelinan

We refer to Mr. Reyes meeting with our Messrs. Bill Hamlen, Goh Jing Hwee and Rajeev Philip at your offices this afternoon.

Further to Mr. Reyes' confirmation that a formal written request will be required in order for GPA to release Jiershin's protest, please accept this letter as same.

Please immediately release a copy of Jiershin's protest to our representatives locally as a matter of urgency.

Thank you.

Yours Sincerely,

Shaman Chan
Director



PETROBRAS
SINGAPORE PRIVATE LTD.

FEBRUARY 2ND, 2013

To:
GUAM POWER AUTHORITY
Aturidat Ilekthresedat Guahan
P. O. Box 2977, Hagatna
Guam 96932-2977

FUEL OIL SUPPLY CONTRACT EXTENSION

REF: GUAM POWER AUTHORITY - PETROBRAS SINGAPORE PRIVATE LTD - FUEL OIL SUPPLY CONTRACT GPA-001-10

WE ARE PLEASED TO PRESENT THE FOLLOWING TERMS AND CONDITIONS:

1. BUYER:
GUAM POWER AUTHORITY
ATURIDAT ILEKTHRESEDAT GUAHAN
P. O. BOX 2977, HAGATNA
GUAM 96932-2977
2. SELLER:
PETROBRAS SINGAPORE PRIVATE LTD
8 EU TONG SEN STREET
22-89 THE CENTRAL
SINGAPORE – 059818
3. PRODUCT: FUEL OIL
4. QUALITY:

THE FUEL OIL DELIVERED HEREUNDER SHALL HAVE THE PHYSICAL AND CHEMICAL CHARACTERISTICS AS DESCRIBED IN THE FOLLOWING TABLE:

Description	Unit of Measure	Test Method	Alternative Method	Minimum Allowed	Maximum Allowed
Sulphur Content	%mass	ASTM D-4294	ASTM D-2622	N/A	LSFO= 1.19 HSFO = 2.00
Pour Point	Deg C	ASTM D-97	N/A	N/A	21
Flash Point	Deg C	ASTM D-93	N/A	66	N/A
Kinematic Viscosity	cSt at 50°C	ASTM D-445	ASTM D-2161		180
Sediment by Extraction	%mass	ASTM D-473	N/A	N/A	0.1

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Water by Distillation	% by volume	ASTM D-95	N/A	N/A	0.5
Vanadium Content	Parts per million	ASTM D-5708	a) UOP 800 b) ASTM D-5184 c) ASTM D-5863 d) IP 501 e) IP 433 f) ISO 14597 g) IP 470 h) IP 465 i) EN 13131	N/A	100
Silicon Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	Combined Al+Si Not to exceed 70 ppm.
Aluminum Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	
Guaranteed Gross Heating Value (HHV)	Million BTU per US Barrel	ASTM D-240	N/A	6.3	N/A
Micro-Carbon Residue	%mass	ASTM D-4530	ASTM D-5245 ASTM D-189	N/A	15
Ash	%mass	ASTM D-482	N/A	N/A	0.1
Asphaltenes	%mass	ASTM D-6560	IP 143	N/A	7
Sodium	ppm	ASTM D-5863/B	ASTM D-5708/B IP 288	N/A	80
Total Sediment (Existent)	%mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.15
Compatibility	a) Cleanliness ratio	ASTM D-4740	N/A	N/A	a) 2
	b) Compatibility ratio				b) 2
API Gravity		ASTM D-287	ASTM D-1298 and conversion	11.2	23
Density at 15°C	Kg/L	ASTM D-287	ASTM D-1298 ASTM D-4052		0.991
Odour				Report	
Hydrogen Sulfide content (in liquid phase)	Mg/kg	IP-399	IP-570	N/A	2
Used lubricating Oil (ULO)				The fuel shall be free of ULO	
Zinc	Mg/kg	IP-501	IP 470		15
Phosphorus	Mg/kg	IP-501	IP 500		15
Calcium	Mg/kg	IP-501	IP 470		30

5. CONTRACT PERIOD

THIS CONTRACT TERM SHALL BE FOR SIX (6) MONTHS AND SHALL COMMENCE ON MARCH 1, 2013 AND SHALL CONTINUE UNTIL MIDNIGHT OF AUGUST 31, 2013, WITH OPTION TO EXTEND FOR ONE (1) ADDITIONAL SIX (6) MONTHS TERM, UPON MUTUAL AGREEMENT OF BOTH PARTIES.



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6. QUANTITY

CONTRACTOR AGREES TO FURNISH AND GPA AGREES TO ACCEPT AND PAY FOR ALL OF GPA'S RESIDUAL FUEL OIL REQUIREMENTS FOR POWER GENERATING PLANTS IN GUAM FOR THE TERM OF THE CONTRACT. THE ESTIMATED TOTAL FUEL OIL REQUIREMENT IS ABOUT ONE MILLION AND FIVE HUNDRED THOUSAND BARRELS PER SEMESTER (1,500,000 BBL/SEMESTER).

THE MINIMUM PURCHASE UNDER THE CONTRACT IS 150,000 METRIC TONS PER SEMESTER. THE MAXIMUM PURCHASE UNDER THE CONTRACT IS 250,000 METRIC TONS PER SEMESTER. THE MINIMUM LOT SIZE REQUIRED FOR EACH DELIVERY IS 35,000MT.

7. DELIVERY

DES CABRAS ISLAND, GUAM. ANY DEVIATION REQUESTED BY BUYER SHALL BE FOR BUYER'S ACCOUNT AND SUBJECT TO SELLER'S APPROVAL.

8. PRICE

8.1. LOW SULPHUR FUEL OIL (LSFO): (1.19%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 117.80/MT (ONE HUNDRED AND SEVENTEEN DOLLARS AND EIGHTY CENTS PER METRIC TON).

8.2. HIGH SULPHUR FUEL OIL (HSFO): (2.00%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 92.80/MT (NINETY TWO DOLLARS AND EIGHTY CENTS PER METRIC TON).

8.3. IN CASE "NO POSTING" ON THE B/L DATE, NO PRICE WILL BE USED AND THE REMAINING 10-DAYS AVERAGE PRICE WILL BE USED. ALL PRICE POSTINGS ARE AT THE PRICES EFFECTIVE DATES.

8.4. FOR INVOICE CALCULATION PURPOSE, QUANTITY SHALL BE REPORTED IN METRIC TONNES AS DECLARED IN BILL OF LADING.

9. PAYMENT

PAYMENT SHALL BE MADE IN US DOLLARS FUNDS WITHOUT OFFSET, DEDUCTION OR COUNTERCLAIM WITHIN THIRTY (30) CALENDAR DAYS (30 DAYS NET TERM) AFTER THE BILL OF LADING DATE PROVIDED VESSEL TENDERS ITS NOR WITHIN FIFTEEN (15) DAYS AFTER THE B/L DATE, OTHERWISE IT EXTENDS DAY BY DAY (B/L DATE INCLUSIVE). IN CASE PAYMENT DUE ON BANK HOLIDAY OR SATURDAY IN GUAM, PAYMENT SHALL BE MADE IMMEDIATELY PRECEDING BANKING DAY. HOWEVER, SHOULD PAYMENT DUE FALLS ON SUNDAY OR MONDAY BANK HOLIDAY IN GUAM, PAYMENT SHALL BE MADE ON THE IMMEDIATELY FOLLOWING BANKING DAY.

THERE WILL BE NO AVAILABLE CREDIT LINE FOR GPA. LETTER OF CREDIT SHALL BE OPENED NO LATER THAN TWO DAYS BEFORE THE BEGINNING OF LOADING WINDOW AT A FIRST CLASS INTERNATIONAL BANK MUTUALLY AGREEABLE TO BOTH GPA AND THE CONTRACTOR.



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PAYMENT SHALL BE AVAILABLE AT SELLER'S ACCOUNT ON MATURITY DATE. IF BUYER FAILS TO PAY ON THE MATURITY DATE, SELLER SHALL BE REIMBURSED FOR THE INTERESTS RELATED TO THE TIME OF DELAY. INTEREST RATE SHALL BE CALCULATED BASED ON THE ONE MONTH LONDON INTERBANK OFFERED RATE (LIBOR) FOR US DOLLAR DEPOSITS OFFERED BY BLOOMBERG PUBLICATION AT 11:00 A.M. LONDON TIME, AS QUOTED ON PAGE BBAM IN EFFECT ON THE DATE BUYER'S PAYMENT WAS DUE, PLUS THREE PERCENT (3.0%) PER ANNUM.

10. GOVERNING LAW AND DISPUTES:

THIS CONTRACT SHALL IN ALL RESPECTS BE GOVERNED BY LAWS OF GUAM. THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ARE EXPRESSLY EXCLUDED.

THIS CONTRACT SHALL NOT BE CONSTRUED TO CONFER ANY BENEFIT ON ANY PERSON NOT BEING A PARTY TO THIS CONTRACT NOR SHALL IT PROVIDE ANY RIGHTS TO SUCH PERSON TO ENFORCE ANY OF ITS PROVISIONS. THE PROVISIONS OF THE ENGLISH CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 ARE EXPRESSLY EXCLUDED.

IN THE EVENT OF ANY CONTROVERSY, DISPUTE OR DIFFERENCE OF ANY NATURE (A "DISPUTE") BETWEEN THE PARTIES ARISING FROM OR IN CONNECTION WITH THIS CONTRACT, EITHER PARTY MAY GIVE NOTICE TO THE OTHER IN WRITING OF THE EXISTENCE OF SUCH DISPUTE SPECIFYING ITS NATURE AND THE POINTS AT ISSUE. IF THE DISPUTE SHALL NOT HAVE BEEN AMICABLY RESOLVED WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF SAID NOTICE, THEN THE SAME SHALL BE EXCLUSIVELY AND DEFINITELY RESOLVED THROUGH FINAL AND BINDING ARBITRATION IN NEW YORK, BY THE AMERICAN ARBITRATION ASSOCIATION ('AAA'), IN ACCORDANCE WITH THE RULES OF ARBITRATION OF SUCH INSTITUTION IN EFFECT AS OF THE DATE THE EXISTENCE OF THE CONTROVERSY IS NOTIFIED BY ONE OF THE PARTIES. THE ARBITRATION SHALL BE CONDUCTED BY THREE ARBITRATORS, UNLESS ALL PARTIES TO THE DISPUTE AGREE TO A SOLE ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE FILING OF THE ARBITRATION. EACH PARTY TO THE DISPUTE SHALL APPOINT ONE ARBITRATOR WITHIN THIRTY (30) DAYS OF THE FILING OF THE ARBITRATION, AND THE TWO ARBITRATORS SO APPOINTED SHALL SELECT THE PRESIDING ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE LATTER OF THE TWO ARBITRATORS HAVE BEEN APPOINTED BY THE PARTIES TO THE DISPUTE. IF A PARTY TO THE DISPUTE FAILS TO APPOINT ITS PARTY-APPOINTED ARBITRATOR OR IF THE TWO PARTY-APPOINTED ARBITRATORS CANNOT REACH AN AGREEMENT ON THE PRESIDING ARBITRATOR WITHIN THE APPLICABLE TIME PERIOD, THEN LCIA SHALL APPOINT THE REMAINDER OF THE THREE ARBITRATORS. THE ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN ENGLISH AND THE ARBITRATOR(S) SHALL BE FLUENT IN THE ENGLISH LANGUAGE. THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE FINAL AND BINDING. JUDGMENT ON THE AWARD OF THE ARBITRAL TRIBUNAL MAY BE ENTERED AND ENFORCED IN ANY COURT HAVING JURISDICTION THEREOF. THE COSTS OF THE ARBITRATION PROCEEDINGS, INCLUDING ATTORNEYS' FEES, SHALL BE BORNE IN THE MANNER DETERMINED BY THE ARBITRAL TRIBUNAL. ANY RIGHT TO APPEAL OR CHALLENGE ANY ARBITRAL DECISION OR AWARD IS HEREBY WAIVED. THE PARTIES MAY SEEK A PRELIMINARY INJUNCTION OR OTHER PRELIMINARY JUDICIAL RELIEF, IF IN ITS JUDGMENT SUCH ACTION IS NECESSARY TO AVOID IRREPARABLE DAMAGE. IT IS EXPRESSLY AGREED THAT INDIRECT, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES SHALL NOT BE AWARDED.

11. LAYTIME AND DEMURRAGE:

11.1. LAYTIME: SHIP LAYTIME OF THIRTY-SIX (36) HOURS AT THE DISCHARGE PORT SHALL COMMENCE SIX (6) HOURS AFTER THE TENDER OF NOTICE OF READINESS (NOR) OR WHEN THE VESSEL BERTHS, WHICHEVER OCCURS FIRST, AND TO CEASE UPON LAST CARGO HOSES DISCONNECTION.

11.2. DEMURRAGE: AS PER CHARTER PARTY RATES. CLAIMS SHALL BE SUBMITTED TO GPA WITHIN 90 DAYS AFTER BILL OF LADING DATE. AFTER THIS PERIOD, NO CLAIMS SHALL BE ACCEPTED BY ANY PARTIES.



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12. OTHER TERMS:

AS PER PETROBRAS SINGAPORE PRIVATE LIMITED – GUAM POWER AUTHORITY CONTRACT REF GPA-001-10 WITH ITS AMENDMENTS NUMBER 1 AND 2, EXCEPT FOR THE AMENDMENTS MENTIONED BELOW. THESE SECTIONS SUPERSEDES ANY OTHER SECTIONS IN THE AGREEMENT, PROPOSAL, RECAP OR CONTRACT. ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN THE SAME.

Section 1.02. FUEL OIL TO BE SUPPLIED
SHALL BE DELETED ENTIRELY.
AND REPLACE WITH:

CONTRACTOR AGREES TO FURNISH AND GPA AGREES TO ACCEPT AND PAY FOR ALL OF GPA'S RESIDUAL FUEL OIL REQUIREMENTS FOR POWER GENERATING PLANTS IN GUAM FOR THE TERM OF THE CONTRACT. THE ESTIMATED TOTAL FUEL OIL REQUIREMENT IS ABOUT ONE MILLION AND FIVE HUNDRED THOUSAND BARRELS PER SEMESTER (1,500,000 BBL/SEMESTER).

THE MINIMUM PURCHASE UNDER THE CONTRACT IS 150,000 METRIC TONS PER SEMESTER. THE MAXIMUM PURCHASE UNDER THE CONTRACT IS 250,000 METRIC TONS PER SEMESTER. THE MINIMUM LOT SIZE REQUIRED FOR EACH DELIVERY IS 35,000MT.

Section 1.03. TERM

PARAGRAPH 2: SHALL BE DELETED ENTIRELY AND REPLACE WITH:

THIS CONTRACT TERM SHALL BE FOR SIX (6) MONTHS AND SHALL COMMENCE ON MARCH 1, 2013 AND SHALL CONTINUE UNTIL MIDNIGHT OF AUGUST 31, 2013, WITH OPTION TO EXTEND FOR ONE (1) ADDITIONAL SIX (6) MONTHS TERM, UPON MUTUAL AGREEMENT OF BOTH PARTIES.

Section 1.04. CONTRACT PRICE

ADD:

FIXED PREMIUM FEE FOR THE SIX (6) MONTHS CONTRACT EXTENSION FROM MARCH 1ST 2013 TO AUGUST 31, 2013 SHALL BE AS FOLLOWS:

1. LOW SULPHUR FUEL OIL (LSFO): (1.19% SULPHUR MAX): USD 117.80/MT (ONE HUNDRED AND SEVENTEEN DOLLARS AND EIGHTY CENTS PER METRIC TON)
2. HIGH SULPHUR FUEL OIL (HSFO): (2% SULPHUR MAX): USD 92.80/MT (NINETY TWO DOLLARS AND EIGHTY CENTS PER METRIC TON).

Section 1.05 INVOICE PRICE DETERMINATION

SHALL BE DELETED ENTIRELY.

AND REPLACE WITH:

LOW SULPHUR FUEL OIL (LSFO): (1.19%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 117.80/MT (ONE HUNDRED AND SEVENTEEN DOLLARS AND EIGHTY CENTS PER METRIC TON).



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HIGH SULPHUR FUEL OIL (HSFO): (2.00%_w SULPHUR MAX): DES CABRAS ISLAND, GUAM, PRICE SHALL BE BASED ON THE ARITHMETIC AVERAGE OF THE MEAN OF THE HIGH/LOW QUOTATIONS FOR "HSFO 180 CST" AS PUBLISHED IN PLATTS ASIA PACIFIC/ARAB GULF MARKETSCAN UNDER THE HEADING "SINGAPORE" PRICED FOR FIVE (5) VALID CONSECUTIVE QUOTATIONS IMMEDIATELY PRIOR TO B/L DATE, THE B/L DATE AND FIVE (5) IMMEDIATELY AFTER THE B/L DATE PLUS A PREMIUM OF USD 92.80/MT (NINETY TWO DOLLARS AND EIGHTY CENTS PER METRIC TON).

IN CASE "NO POSTING" ON THE B/L DATE, NO PRICE WILL BE USED AND THE REMAINING 10-DAYS AVERAGE PRICE WILL BE USED. ALL PRICE POSTINGS ARE AT THE PRICES EFFECTIVE DATES.

FOR INVOICE CALCULATION PURPOSE, QUANTITY SHALL BE REPORTED IN METRIC TONNES AS DECLARED IN BILL OF LADING.

Section 1.07 TERMS OF PAYMENT
SHALL BE DELETED ENTIRELY.
AND REPLACE WITH:

PAYMENT SHALL BE MADE IN US DOLLARS FUNDS WITHOUT OFFSET, DEDUCTION OR COUNTERCLAIM WITHIN THIRTY (30) CALENDAR DAYS (30 DAYS NET TERM) AFTER THE BILL OF LADING DATE PROVIDED VESSEL TENDERS ITS NOR WITHIN FIFTEEN (15) DAYS AFTER THE B/L DATE, OTHERWISE IT EXTENDS DAY BY DAY (B/L DATE INCLUSIVE). IN CASE PAYMENT DUE ON BANK HOLIDAY OR SATURDAY IN GUAM, PAYMENT SHALL BE MADE IMMEDIATELY PRECEDING BANKING DAY. HOWEVER, SHOULD PAYMENT DUE FALLS ON SUNDAY OR MONDAY BANK HOLIDAY IN GUAM, PAYMENT SHALL BE MADE ON THE IMMEDIATELY FOLLOWING BANKING DAY.

THERE WILL BE NO AVAILABLE CREDIT LINE FOR GPA. LETTER OF CREDIT SHALL BE OPENED NO LATER THAN TWO DAYS BEFORE THE BEGINNING OF LOADING WINDOW AT A FIRST CLASS INTERNATIONAL BANK MUTUALLY AGREEABLE TO BOTH GPA AND THE CONTRACTOR. PAYMENT SHALL BE AVAILABLE AT SELLER'S ACCOUNT ON MATURITY DATE. IF BUYER FAILS TO PAY ON THE MATURITY DATE, SELLER SHALL BE REIMBURSED FOR THE INTERESTS RELATED TO THE TIME OF DELAY. INTEREST RATE SHALL BE CALCULATED BASED ON THE ONE MONTH LONDON INTERBANK OFFERED RATE (LIBOR) FOR US DOLLAR DEPOSITS OFFERED BY BLOOMBERG PUBLICATION AT 11:00 A.M. LONDON TIME, AS QUOTED ON PAGE BBAM IN EFFECT ON THE DATE BUYER'S PAYMENT WAS DUE, PLUS THREE PERCENT (3.0%) PER ANNUM.

Section 1.10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
SHALL BE DELETED ENTIRELY.

Section 2.01 PRODUCT AND QUALITY
SHALL BE DELETED ENTIRELY.
AND REPLACE WITH:

THE FUEL OIL DELIVERED HEREUNDER SHALL HAVE THE PHYSICAL AND CHEMICAL CHARACTERISTICS AS DESCRIBED IN THE FOLLOWING TABLE:

Description	Unit of Measure	Test Method	Alternative Method	Minimum Allowed	Maximum Allowed
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Sulphur Content	%mass	ASTM D-4294	ASTM D-2622	N/A	LSFO= 1.19 HSFO = 2.00
Pour Point	Deg C	ASTM D-97	N/A	N/A	21
Flash Point	Deg C	ASTM D-93	N/A	66	N/A
Kinematic Viscosity	cSt at 50°C	ASTM D-445	ASTM D-2161		180
Sediment by Extraction	%mass	ASTM D-473	N/A	N/A	0.1
Water by Distillation	% by volume	ASTM D-95	N/A	N/A	0.5
Vanadium Content	Parts per million	ASTM D-5708	a) UOP 800 b) ASTM D-5184 c) ASTM D-5863 d) IP 501 e) IP 433 f) ISO 14597 g) IP 470 h) IP 465 i) EN 13131	N/A	100
Silicon Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	Combined Al+Si Not to exceed 70 ppm.
Aluminum Content	Parts per million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	
Guaranteed Gross Heating Value (HHV)	Million BTU per US Barrel	ASTM D-240	N/A	6.3	N/A
Micro-Carbon Residue	%mass	ASTM D-4530	ASTM D-5245 ASTM D-189	N/A	15
Ash	%mass	ASTM D-482	N/A	N/A	0.1
Asphaltenes	%mass	ASTM D-6560	IP 143	N/A	7
Sodium	ppm	ASTM D-5863/B	ASTM D-5708/B IP 288	N/A	80
Total Sediment (Existent)	%mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.15
Compatibility	a) Cleanliness ratio	ASTM D-4740	N/A	N/A	a) 2
	b) Compatibility ratio				b) 2
API Gravity		ASTM D-287	ASTM D-1298 and conversion	11.2	23
Density at 15°C	Kg/L	ASTM D-287	ASTM D-1298 ASTM D-4052		0.991
Odour				Report	
Hydrogen Sulfide content (in liquid phase)	Mg/kg	IP-399	IP-570	N/A	2
Used lubricating Oil (ULO)				The fuel shall be free of ULO	
Zinc	Mg/kg	IP-501	IP 470		15



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Phosphorus	Mg/kg	IP-501	IP 500		15
Calcium	Mg/kg	IP-501	IP 470		30

NOTE ITEM 16: CONTRACTOR SHALL ENSURE THAT EACH SHIPMENT OF FUEL OIL IS COMPATIBLE WITH A REPRESENTATIVE SAMPLE OF THE PREVIOUS SHIPMENT OF THE SAME GRADE. TESTING FOR COMPATIBILITY WILL BE CONDUCTED AT LOADPORT ACCORDING TO THE TEST METHOD ASTM D-4740 MUTUALLY AGREED BETWEEN BOTH PARTIES AND THE CONTRACTOR WILL GUARANTEE SPOT RATING OF 2 OR BETTER. THE AUTHORITY RESERVES THE RIGHT TO REQUIRE THE SUPPLIER TO ADD AND TO CONDUCT ADDITIONAL TESTS AS MAY BE REQUIRED.

Section 3.03 SPECIFICATIONS
 SHALL BE DELETED ENTIRELY.

Section 3.05 FORCE MAJURE
 PLEASE ADD THE FOLLOWING PARAGRAPH: "FORCE MAJEURE CLAIMS SHALL BE SUBMITTED WITHIN SIXTY (60) DAYS. AFTER THIS PERIOD, NO CLAIMS SHALL BE ACCEPTED BY ANY PARTIES."

12.10. Section 3.11 DISPUTES
 SHALL BE DELETED ENTIRELY
 AND REPLACE WITH:

GOVERNING LAW AND DISPUTES:

THIS CONTRACT SHALL IN ALL RESPECTS BE GOVERNED BY LAWS OF GUAM. THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ARE EXPRESSLY EXCLUDED.

THIS CONTRACT SHALL NOT BE CONSTRUED TO CONFER ANY BENEFIT ON ANY PERSON NOT BEING A PARTY TO THIS CONTRACT NOR SHALL IT PROVIDE ANY RIGHTS TO SUCH PERSON TO ENFORCE ANY OF ITS PROVISIONS. THE PROVISIONS OF THE ENGLISH CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 ARE EXPRESSLY EXCLUDED.

IN THE EVENT OF ANY CONTROVERSY, DISPUTE OR DIFFERENCE OF ANY NATURE (A "DISPUTE") BETWEEN THE PARTIES ARISING FROM OR IN CONNECTION WITH THIS CONTRACT, EITHER PARTY MAY GIVE NOTICE TO THE OTHER IN WRITING OF THE EXISTENCE OF SUCH DISPUTE SPECIFYING ITS NATURE AND THE POINTS AT ISSUE. IF THE DISPUTE SHALL NOT HAVE BEEN AMICABLY RESOLVED WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF SAID NOTICE, THEN THE SAME SHALL BE EXCLUSIVELY AND DEFINITELY RESOLVED THROUGH FINAL AND BINDING ARBITRATION IN NEW YORK, BY THE AMERICAN ARBITRATION ASSOCIATION ('AAA'), IN ACCORDANCE WITH THE RULES OF ARBITRATION OF SUCH INSTITUTION IN EFFECT AS OF THE DATE THE EXISTENCE OF THE CONTROVERSY IS NOTIFIED BY ONE OF THE PARTIES. THE ARBITRATION SHALL BE CONDUCTED BY THREE ARBITRATORS, UNLESS ALL PARTIES TO THE DISPUTE AGREE TO A SOLE ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE FILING OF THE ARBITRATION. EACH PARTY TO THE DISPUTE SHALL APPOINT ONE ARBITRATOR WITHIN THIRTY (30) DAYS OF THE FILING OF THE ARBITRATION, AND THE TWO ARBITRATORS SO APPOINTED SHALL SELECT THE PRESIDING ARBITRATOR WITHIN THIRTY (30) DAYS AFTER THE LATTER OF THE TWO ARBITRATORS HAVE BEEN APPOINTED BY THE PARTIES TO THE DISPUTE. IF A PARTY TO THE DISPUTE FAILS TO APPOINT ITS PARTY-APPOINTED ARBITRATOR OR IF THE TWO PARTY-APPOINTED ARBITRATORS CANNOT REACH AN AGREEMENT ON THE PRESIDING ARBITRATOR



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WITHIN THE APPLICABLE TIME PERIOD, THEN LCIA SHALL APPOINT THE REMAINDER OF THE THREE ARBITRATORS. THE ARBITRATION PROCEEDINGS SHALL BE CONDUCTED IN ENGLISH AND THE ARBITRATOR(S) SHALL BE FLUENT IN THE ENGLISH LANGUAGE. THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE FINAL AND BINDING. JUDGMENT ON THE AWARD OF THE ARBITRAL TRIBUNAL MAY BE ENTERED AND ENFORCED IN ANY COURT HAVING JURISDICTION THEREOF. THE COSTS OF THE ARBITRATION PROCEEDINGS, INCLUDING ATTORNEYS' FEES, SHALL BE BORNE IN THE MANNER DETERMINED BY THE ARBITRAL TRIBUNAL. ANY RIGHT TO APPEAL OR CHALLENGE ANY ARBITRAL DECISION OR AWARD IS HEREBY WAIVED. THE PARTIES MAY SEEK A PRELIMINARY INJUNCTION OR OTHER PRELIMINARY JUDICIAL RELIEF, IF IN ITS JUDGMENT SUCH ACTION IS NECESSARY TO AVOID IRREPARABLE DAMAGE. IT IS EXPRESSLY AGREED THAT INDIRECT, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES SHALL NOT BE AWARDED

Section 3.14 TRANSPORTATION
(c1) SHIP DEMURRAGE

ADD AFTER SECOND PARAGRAPH:

"AFTER THIS PERIOD, NO CLAIMS SHALL BE ACCEPTED BY ANY PARTIES."

Section 4.05 DEFAULT
SHALL BE DELETED ENTIRELY AND REPLACED BY:

"IF THE PARTY REFUSES OR FAILS TO PERFORM ANY OF THEIR OBLIGATIONS UNDER THIS AGREEMENT, NON-BREACHING PARTY SHALL NOTIFY THE PARTY EITHER BY E-MAIL OR IN WRITING WITHIN THIRTY (30) DAYS OF THE BREACH. IF THE PARTY DOES NOT REMEDY THE BREACH WITHIN 30 DAYS AFTER THE DATE OF NOTIFICATION, NON-BREACHING PARTY MAY BY GIVING WRITTEN NOTICE TO PARTY TERMINATE THE AGREEMENT IN WHOLE OR SUSPEND TAKING OF DELIVERY UNDER THE CONTRACT.

IN THE EVENT OF PARTIAL TERMINATION OR SUSPENSION UNDER THIS PROVISION, GPA RESERVES THE RIGHT TO PROCURE FUEL OIL SUPPLY FROM ANOTHER SOURCE IMMEDIATELY UPON NOTIFICATION TO CONTRACTOR EITHER BY E-MAIL OR IN WRITING. FUEL TO BE PROCURED SHALL BE AT THE PREVAILING MARKET RATE AND THE CONTRACTOR SHALL BE LIABLE FOR THE DIFFERENCE BETWEEN THE CONTRACT PRICE AND THE PREVAILING MARKET PRICE AT THE TIME OF PARTIAL TERMINATION OR SUSPENSION.

IN THE EVENT OF TERMINATION, THE CONTRACTOR SHALL NOT BE LIABLE FOR THE DIFFERENCE BETWEEN THE CONTRACT PRICE AND THE PREVAILING MARKET PRICE AT THE TIME OF TERMINATION."

Section 5.04 ASSIGNMENT
SHALL BE DELETED ENTIRELY AND REPLACED BY:

"NEITHER PARTY SHALL HAVE THE RIGHT TO TRANSFER OR ASSIGN THIS AGREEMENT, IN WHOLE OR IN PART, OR ANY RIGHT AND OBLIGATIONS ARISING THEREFROM, TO A THIRD PARTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE OTHER PARTY, SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD. ANY ATTEMPTED ASSIGNMENT OR TRANSFER WITHOUT SUCH PRIOR CONSENT SHALL BE NULL AND VOID.



PETROBRAS
SINGAPORE PRIVATE LTD.

NOTWITHSTANDING THE FOREGOING, BOTH PARTIES SHALL HAVE THE RIGHT TO ASSIGN THIS AGREEMENT TO AN AFFILIATE WITHOUT THE OTHER PARTY'S WRITTEN CONSENT REQUIRED. IN CASE OF SUCH ASSIGNMENT, THE ASSIGNING PARTY SHALL INFORM THE OTHER PARTY THEREOF IN WRITING AND WITHOUT UNDUE DELAY.

FOR THE PURPOSES OF THIS AGREEMENT, "AFFILIATE" MEANS ANY COMPANY OR LEGAL ENTITY WHICH (A) CONTROLS EITHER DIRECTLY OR INDIRECTLY A PARTY HERETO, OR (B) IS CONTROLLED DIRECTLY OR INDIRECTLY BY SUCH PARTY, OR (C) IS DIRECTLY OR INDIRECTLY CONTROLLED BY A COMPANY OR ENTITY WHICH DIRECTLY OR INDIRECTLY CONTROLS SUCH PARTY. "CONTROL" FOR PURPOSES OF THE PREVIOUS SENTENCE MEANS THE ABILITY TO DIRECT THE MANAGEMENT AND POLICIES OF A COMPANY OR LEGAL ENTITY, WHETHER THROUGH OWNERSHIP OF SECURITIES, BY CONTRACT OR OTHERWISE.

THIS AGREEMENT SHALL BE BINDING UPON, AND INURE TO THE BENEFIT OF THE SUCCESSORS AND PERMITTED ASSIGNEES OF THE PARTIES."

Section 5.08 GOVERNING LAW
SHALL BE DELETED ENTIRELY.

VENINA VELOSA DA FONSECA
MANAGING DIRECTOR
PETROBRAS SINGAPORE PTE LTD

JOAQUIN C. FLORES, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

Venina Velosa da Fonseca
Managing Director
Petrobras Singapore Private Limited
Reg. No. 200604967H

February 6, 2013

Guam Power Authority
P.O. Box 2977
Agana, Guam
U.S.A.

260 Orchard Road
#13-01 The Heeren
Singapore 238855
Telephone : (65) 6737 9922
Facsimile : (65) 6737 0917
Telex : RS 33473 Vitol

Co. Regn. No. 199001917Z

Attention: Joaquin C. Flores, General Manager
Jamie C. Pangelinan, Supply Management Administrator

Re: Bid No.: GPA-068-12 for Supply of Residual Fuel Oil No. 6

Dear Sirs,

We refer to your letter dated February 5, 2013 confirming that the contract with Petrobras Singapore Private Limited ("Petrobras") has been extended by 6 months.

We are surprised and disappointed by this information, both in terms of the award to Petrobras and the duration of the contract.

Therefore, it is with regret that we have no choice but to hereby lodge our formal protest of the purported contract extension with Petrobras.

Our reasons for doing so are as follows:

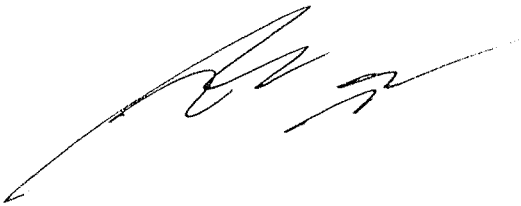
- 1) The contract with Petrobras on its own terms (which we have downloaded from your website) does not allow for an extension on this type: i.e. on different terms, at a different price and for six months. We refer you to Section 1.03 of your contract with Petrobras. This award is therefore a new contract and thus violates the terms of the Stay of Procurement as advised by you.
- 2) The review of the protest by Jiershin should be completed and the protest dismissed well before August, so the award of a six month contract to another party seems unjustifiable.

- 3) The award to Petrobras after the price bids for GPA-068-12 have been revealed is inherently unfair and undermines the credibility of the entire procurement process, not least because Petrobras is not maintaining the price of the contract you are purporting to extend.
- 4) All bidders should have been given an opportunity to supply the GPA's immediate supply needs on a prompt basis pending the review of Jiershin's protest.

We look forward to hearing from you.

Yours sincerely,

Shaman Chan
Director

A handwritten signature in black ink, appearing to be 'Shaman Chan', written in a cursive style. The signature starts with a long, sweeping horizontal stroke that curves upwards and then continues with several smaller, connected loops and strokes.



February 11, 2013

Guam Power Authority
P.O. Box 2977
Agana, Guam
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260 Orchard Road
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Singapore 238855
Telephone : (65) 6737 9922
Facsimile : (65) 6737 0917
Telex : RS 33473 Vitol

Co. Regn. No. 199001917Z

Attention: Joaquin C. Flores, General Manager
Jamie C. Pangelinan, Supply Management Administrator

**RE: INVITATION FOR BID NUMBER GPA-068-12 FOR THE SUPPLY OF
RESIDUAL FUEL OIL NO. 6 TO COMMENCE IN MARCH 2013.**

Vitol Asia Pte. Ltd. (Vitol) supplements and amplifies its protest letter of 06 February, 2013 as stated below.

Vitol protests Guam Power Authority's (GPA) procurement of Residual Fuel Oil No. 6 Petrobras Singapore Private Limited (Petrobras) for any deliveries after February 2013 on the following grounds:

1. The procurement is in violation of Title 5 Guam Code Section 5425. IFB No. GPA-068-12 was for delivery of Fuel Oil No. 6 on a monthly basis commencing in March 2013. This procurement has been stayed by operation of Title 5 Guam Code Section 5425(g) as acknowledged by GPA in its letter to Vitol dated 30 January, 2013. However, subsequent to the stay under section 5425(g), GPA opened negotiations with Petrobras to acquire fuel oil No. 6 for deliveries during the same period of time specified in the IFB, and is purported to have executed contractual documents for deliveries to commence in March 2013. Such a contractual action is in violation of Section 5425(g) and, therefore, should be declared null and void.
2. The procurement is an improper renegotiation of the "option to extend" provisions of Petrobras Contract No. GPA-001-10. Petrobras' Contract No. GPA-001-10 included two options to extend the contract performance for an additional one-year period under each option. Exercise of each option was to be by mutual agreement and on the same terms and conditions of the existing contract. Any efforts by the

parties to exercise the first of these options were unsuccessful for reasons undisclosed to Vitol, resulting in the advertisement of IFB No. GPA-068-12 for delivery of fuel oil No. 6 commencing in March 2013. The alleged option exercise negotiated following the stay under title 5 Guam Code section 5425(g) significantly changes the essential terms of the original contract by reducing the option performance period from one year to six months and by increasing the contract price to an amount slightly below Vitol's bid price. Because the alleged option exercise is not within scope of the original contract it is a new procurement in violation of Section 5425(g) and Guam procurement law in general.

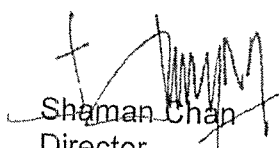
3. The procurement is in violation of Title 5 Guam Code Section 5214. The procurement from Petrobras was negotiated on a sole source basis without a proper determination pursuant to Section 5214 that there is only one source available. In fact such a determination can not be made because GPA is aware of at least three potential sources, the three bidders under IFB No. GPA-068-12.

4. The procurement is an unethical and inherently unfair "auctioneering" action that threatens the integrity of the procurement process. Whether intentionally or not, GPA has in effect orchestrated an illegal "auctioneering". It has conducted an IFB process exposing the market price bids of the responders and then allowed the highest bidder, Petrobras, and Petrobras alone, to change its bid, reducing its price to undercut the otherwise successful bidder Vitol. If allowed to stand, such actions threaten the integrity of the Government of Guam's procurement system.

Therefore, Vitol requests that the procurement of Fuel Oil No. 6 from Petrobras for deliveries after February 2013 be declared null and void.

We look forward to your feedback on an urgent basis.

Thank you.


Shaman Chan
Director
Vitol Asia Pte Ltd



LAW OFFICES OF
JOHN C. TERLAJE

2ND FLR, SUITE 216 • 194 HERNAN CORTES AVE., HAGÁTÑA GUAM 96910
TELEPHONE: (671) 477-8894 / 477-8895 • FAX: (671) 472-8896

February 12, 2013

Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932

Attention: Joaquin C. Flores, General Manager
Jamie C. Pangelinan, Supply Management Administrator

**Re: Invitation for Bid Number GPA-068-12 FOR THE SUPPLY OF
RESIDUAL FUEL OIL NO. 6 TO COMMENCE IN MARCH 2013**

I have been retained as counsel by Vitol Asia Pte. Ltd., and kindly request inspection the following documents during normal hours and copies of the same:

1. The Fuel Oil Supply Contract No. GPA-001-10 between the Guam power Authority and Petrobras Singapore Private Limited, including all clauses, terms and conditions, and amendments;
2. Any and all correspondence from Petrobras Singapore Private Limited, or its representative(s), indicating Petrobras willingness or unwillingness to accept extension of its contract No. GPA-001-10 beyond expiration of the original term;
3. The Record of Procurement required by Title 5 of the Guam Code, section 5249, to the extent that it relates to any and all considerations or efforts to extend Petrobras' contract No. GPA-001-10 beyond the original expiration date, public inspection of which is provided for by Title 5 of the Guam Code, section 5251;
4. Solicitation for Supply Residual Fuel Oil No. 6, IFB No. GPA-068-12, including all amendments and/or modifications;
5. The Abstract of Bids received in response to IFB No. GPA-068-12;
6. The complete bids submitted by Jiershing GT Ohng Company LLC and Petrobras Singapore Private Limited in response to IFB No. GPA-068-12, public inspection of which is provided for by Title 5 of the Guam Code, section 5211 (d);
7. Each Bid Bond or Bid Security submitted with the bids of Jiershing GT Ohng Company LLC and Petrobras Singapore Private Limited in response to IFB No. GPA-068-12;
8. All request by any bidder to correct or withdraw its bid submitted in response to IFB No. GPA-068-12;

9. All protests filed by or any part related to IFB No. GPA-068-12 including but not limited to any protest(s) filed by Petrobras Singapore Private Limited or Jiershing GT Ohng Company LLC;
10. Any determination of necessity to continue with the procurement of made since the 30 November 2012 pursuant to Title 5 of the Guam Code, Section 5425(g), or any other provision of law or regulation;
11. Any Declaration of emergency made since the 30 day of November 2012 pursuant to Title 5 of the Guam Code, section 5215;
12. Any Declaration of Emergency as described in Title 5 of the Guam Code Sections 5215 and/or 5425(g) made since the 30 November 2012;
13. All notices issued by Guam Power authority pursuant to Title 5 of the Guam Code, Section 5425(g), indicated Guam Power Authority's intention or determination to continue with the procurement of Fuel Oil pursuant to IFB No. GPA-06-12;
14. Any determination made sin the 30 November 2012 pursuant to Title 5 of the Guam Code, section 5214 authorizing procurement of Fuel Oil on a sole source basis from Petrobras Singapore Private Limited or Jiercshing GT Ohng Company LLC.

Thank you for attention and cooperation in this matter. If you should have any questions regarding this letter please feel free to call me.

Sincerely,


John C. Tentaje



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 HAGATNA, GUAM U.S.A. 96932-2977

February 20, 2013

Law Offices of John C. Terlaje
2nd Floor, Suite 216
194 Hernan Cortez Avenue
Hagatna, Guam 96910

ATTN: Attorney John C. Terlaje
SUBJECT: Freedom of Information Act, Inspect & Copy IFB Documents
REF.: IFB GPA-068-12 for Supply of Residual Fuel Oil No. 6

Dear Mr. Terlaje,

This is in response to your company's request under the "Freedom of Information Act", a copy of all documents related to GPA-068-12, for the Supply of Residual Fuel Oil No. 6 to commence in March 2013.

Attached are copies relative to IFB No.: GPA-068-12 for the Supply of Residual Fuel Oil No. 6:

1. Fuel Oil Supply Contract Extension with Petrobras Singapore Private Ltd. Dated February 02, 2013
2. Invitation for Bid No.: GPA-068-12, Supply of Residual Fuel Oil No. 6
3. Bid Abstract, IFB No.: GPA-068-12, Supply of Residual Fuel Oil No. 6
4. IFB Package, Jier Shing GT Ohng Company LLC
5. IFB Package, Petrobras Singapore Private Ltd.
6. Letter of Credit, Jier Shin Korea Co. Ltd., LC No.: 7-0000581-00 Dated 11/13/2012, \$500,000.00
7. Bid Bond, Petrobras Singapore Private Ltd., Bond No.: OGT12000053, \$5,000.00
8. Protest letter submitted Jier Shing GT Ohng Company LLC through its legal counsel Calvo Fisher & Jacob LLP dated January 29, 2013 and Request for Reconsideration dated January 18, 2013
9. CCU Resolution Nos.: 2012-80 (Authorizing the Management of the Guam Power Authority (GPA) to Proceed with the Extension of the Contract for the Supply of Residual Fuel Oil No.: 6 (GPA-001-10) with Petrobras and 2013-04 (Authorizing the Management of the Guam Power Authority to Petition the Public Utilities Commission to Award the Contract for the Supply of Residual Fuel Oil No. 6

Please be advised, the Guam Power Authority has not issued a final determination with reference to the protest submitted by Jier Shing GT Ohng Company LLC.

A non-refundable fee of \$11.10 (\$.10 for the 1st copy, .02 thereafter, a total of 551 pages) must be paid at our GPA Customer Services Department prior to issuance of documents.

Should you have any questions, you may contact me at (671) 648-3054/55 or fax (671) 648-3165.

Respectfully,


JOAQUIN C. FLORES, P.E.
General Manager

LAW OFFICES OF
JOHN C. TERLAJE

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TELEPHONE: (671) 477-8894 / 477-8895 • FAX: (671) 477-8895



February 22, 2013

Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932

Attention: Joaquin C. Flores, General Manager
Jamie C. Pangelinan, Supply Management Administrator

Re: Freedom of Information Act Request; Invitation for Bid Number GPA-068-12 FOR THE SUPPLY OF RESIDUAL FUEL OIL NO. 6 TO COMMENCE IN MARCH 2013


I received your response to my request for documents yesterday. I thank you for your assistance in producing the items you did. Unfortunately many of the items requested were not part of the packet you prepared. I have listed the missing items below that mirror my request of February 12, 2013. I request that these documents be produced immediately, as required, for my review. It is our belief that these records do exist and as you are fully aware withholding said documents is in direct violation of the Act.

1. Any and all correspondence from Petrobras Singapore Private Limited, or its representative(s), indicating Petrobras willingness or unwillingness to accept extension of its contract No. GPA-001-10 beyond expiration of the original term;
2. The Record of Procurement required by Title 5 of the Guam Code, section 5249, to the extent that it relates to any and all considerations or efforts to extend Petrobras' contract No. GPA-001-10 beyond the original expiration date, public inspection of which is provided for by Title 5 of the Guam Code, section 5251;
3. All request by any bidder to correct or withdraw its bid submitted in response to IFB No. GPA-068-12;
4. All protests filed by or any part related to IFB No. GPA-068-12 including but not limited to any protest(s) filed by Petrobras Singapore Private Limited or Jiershing GT Ohng Company LLC;
5. Any determination of necessity to continue with the procurement of made since the 30 November 2012 pursuant to Title 5 of the Guam Code, Section 5425(g), or any other provision of law or regulation;
6. Any Declaration of emergency made since the 30 day of November 2012 pursuant to Title 5 of the Guam Code, section 5215;
7. Any Declaration of Emergency as described in Title 5 of the Guam Code Sections 5215 and/or 5425(g) made since the 30 November 2012;

8. All notices issued by Guam Power authority pursuant to Title 5 of the Guam Code, Section 5425(g), indicated Guam Power Authority's intention or determination to continue with the procurement of Fuel Oil pursuant to IFB No. GPA-06-12;
9. Any determination made sin the 30 November 2012 pursuant to Title 5 of the Guam Code, section 5214 authorizing procurement of Fuel Oil on a sole source basis from Petrobras Singapore Private Limited or Jiercshing GT Ohng Company LLC.

If any of the requested items do not exist please state that in your reply letter. Thank you for attention and cooperation in this matter. If you should have any questions regarding this letter please feel free to call me.

Sincerely,


John C. Terlaje